

PROJECT MANUAL

for the

Sidewalk Improvements Project

Located on

***Selected Streets as Noted Herein
Within the Town of Stratford, Connecticut***

**Bid #2016-032
CD Project #4114**

August 2, 2016

Funded by the federal Community Development Block Grant (CDBG) Program



SIDEWALK IMPROVEMENTS PROJECT

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BIDDING REQUIREMENTS



INVITATION FOR BID

TOWN OF STRATFORD, CONNECTICUT

The Town of Stratford CT and the Office of the Purchasing Agent, will receive SEALED BIDS for:

BID #2016-032 Sidewalk Improvements Project
Due: 3:00 PM August 18, 2016

The scope of work involves the installation of new sidewalks, the replacement of deteriorated sidewalks, and allied construction on selected streets within the Town of Stratford. The intent of the project is to eliminate gaps in the sidewalk network on these streets and repair deteriorated sidewalks.

The Instructions to Bidders, Bid Form, Contract Documents, Plans and Specifications, and Forms of Bid Bonds and Performance Bonds may be examined and obtained at www.townofstratford.com by clicking on the "Current Bid Invitations" link under the "Things to Know" section of the homepage. The Town of Stratford is located at 2725 Main Street, Stratford, CT, phone 203-385-4044 (Purchasing). All Addenda will be posted on the www.townofstratford.com website up to 48 hours before the bid opening, and it is the contractor's responsibility to check the website often for addenda.

Attention is called to the fact that this project is being funded through the Federal Community Development Block Grant Program and, as such, not less than the minimum salaries and wages, as set forth in the Bid Documents must be paid on this project. All bidders must certify that they are eligible to bid on the project and are not excluded from Federal Procurement or Non-Procurement Programs.

The Town of Stratford is an equal opportunity employer, and requires an Affirmative Action Policy for all its Contractors and Vendors, as a condition of doing business with the Town as per Federal Order 11246.

Each bidder must deposit with his bid, security in the amount of five (5%) of the total bid and subject to the conditions provided in the Instructions to Bidders and Bid Proposal.

The Town of Stratford reserves the right to reject any or all bids, or to accept the lowest responsible bidder, and to waive any informalities, omissions, excess verbiage, or technical defects in the bidding if, in its opinion, it would be in the best interest of the Town of Stratford to do so. No bidder may withdraw his bid within sixty (60) days after the actual date of the opening thereof.

Town of Stratford, Connecticut
Michael Bonnar
Purchasing Agent

**TOWN OF STRATFORD
PURCHASING DEPARTMENT
STRATFORD, CONNECTICUT**

Standard Instructions, Conditions, and Reservations For Bids

on the

Sidewalk Improvements Project
Stratford, Connecticut

Bid #2016-032
CD Project #4114

The Town of Stratford, Connecticut, through the Office of the Purchasing Agent, will receive SEALED BIDS for the **Sidewalk Improvements Project, Stratford, Connecticut**, as outlined in the accompanying specifications, in accordance with the following instructions, conditions, and reservations:

A. CLOSING DATE:

Bids will be received by the Office of the Purchasing Agent by 3:00 PM, August 18, 2016, at which time they will be publicly opened and read. All bidders are invited to attend this public opening in the Council Chambers, Town Hall, Stratford, Connecticut.

Any bid may be withdrawn prior to the above-scheduled time for receiving bids, or any authorized postponement thereof. Any bids received after the date and time specified SHALL NOT BE considered.

B. INSTRUCTIONS:

Bids must be submitted on the enclosed bid forms. All forms must be filled out completely. Extra copies of bid forms and specifications are available at the Purchasing Department upon request. All bids must be addressed to the attention of the Purchasing Agent, sealed and with the appropriate bid number and closing date noted above. Bids may be mailed or submitted in person at the Office of the Purchasing Agent, Room 202, Town Hall, Stratford, Connecticut, 06615. **Bidders are hereby notified that: your name on the bid form and bid bond, and, if the contract is awarded to you, on the contract document, the performance bond, labor and materials bond, and the insurance certificate must be identical to your name as it appears on your incorporation or organization papers on file in the Office of the Secretary of the State. Failure to heed this instruction may contribute to rejection of your bid.**

C. CONDITIONS:

Each bidder must provide a bid guarantee of \$2,709, which is five percent (5%) of the amount budgeted for this project. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying the bid as assurance that the bidder

will, upon acceptance of his bid, execute the contractual documents as required within the time specified.

The successful bidder will be required to post a performance bond equal to \$54,173, and a separate payment bond equal to \$54,173, which is the amount budgeted for this project. All bonds must be listed on the most recent IRS Circular 570. The successful bidder must furnish proof of adequate insurance coverage, with a carrier and in a form acceptable to the Town of Stratford, as follows:

a. General Liability

Occurrence limit \$1,000,000; aggregate limit \$2,000,000. The insurance carried by the successful bidder shall be on form CG 00 01, or equivalent. The Town of Stratford must be named as an additional insured on the contractor's General Liability Insurance Policy with form CG 20 10 or CG 20 33, and CG 20 37.

b. Automobile Liability

Combined single limit of \$1,000,000. Comprehensive automobile policy to cover all owned, hired or non-owned automobiles or vehicles.

c. Workers Compensation

The successful bidder must have workers' compensation and employers' liability insurance as required by Connecticut and federal law, plus employers liability limits of \$500,000 per accident.

d. Umbrella Liability

The successful bidder shall have a minimum coverage of \$1,000,000 excess umbrella coverage, naming the Town as additional insured.

Failure or neglect on the part of the successful bidder to provide the required Insurance Certificate within two weeks of the date of notification may be considered by the Town as proof that the contractor is unable to fulfill the contract, and, in this event, the award will be made to the next lowest bidder.

In addition, the successful bidder shall, at all times, save, indemnify and hold harmless the Town of Stratford, its officers, agents, employees and servants from liability of any nature or kind, including costs and expenses for or on account of, any patented or copyrighted equipment, materials, articles, or processes used in the performance of this contract, or on account of any and all claims, damages, losses, litigation expense and counsel fees arising out of loss or injuries (including death) sustained by or alleged to have been sustained by the public or any persons affected by the successful bidder's work, or by the successful bidder or any subcontractor, or anyone directly or indirectly employed by them while engaged in the performance of their duties in connection with this contract.

D. GENERAL BID INFORMATION:

Basis of Bid: All prices must include all costs involved in providing the services as outlined in the accompanying specifications, including labor, equipment and materials. No additional costs will be considered by the Town.

Method of Award: Award will be made to the lowest responsible bidder meeting the specifications and conditions of this Request for Bid.

Payment: Payment will be made upon acceptance of the completed work by an authorized representative of the Town of Stratford.

Taxes: Since the Town of Stratford is exempt from all taxes, no charges for taxes of any kind, except the State building permit education fee, should be included in your bid or on any invoices to the Town.

E. TERM OF CONTRACT:

The successful bidder is expected to complete the project within the timeframe set forth for completion on the Bid Form. Bidders should be aware, however, that this contract may be held open and extended, at the sole discretion of the Town of Stratford, for an indefinite period, not to exceed two (2) years, in the event that additional Community Development Block Grant funds become available either during the current 2015 CDBG Program Year or additional allocations are made to the project in the 2016 CDBG Program Year. Bidders should be aware that in the event of a contract extension, pricing, as set forth in the original contract, shall remain the same.

F. RESERVATIONS:

The Town of Stratford may consider informal any bid not prepared and submitted in accordance with the provisions herein stated.

The Town of Stratford reserves the right to reject any or all bids or to accept the lowest responsible bidder, and to waive any informalities, omission, excess verbiage, or technical defects in the bidding if, in its opinion, it would be in the best interest of the Town of Stratford to do so. No bidder may withdraw his bid within sixty (60) days after the actual date of the opening thereof.

G. SPECIFICATIONS:

The technical standard specifications shall be the State Department of Transportation Standard Specifications for Roads, Bridges, Facilities, and Incidental Construction (DOT Form 817), as supplemented by Supplemental Specifications included herein. The latest version of Form 817 may be obtained at www.ct.gov/dot by clicking on the “Manuals” link under the “Publications” section of the homepage.

H. OTHER PROVISIONS:

All interested parties shall make arrangements to visit the site(s) and/or familiarize themselves with existing conditions prior to the submission of a bid. Failure to visit the site(s) and/or familiarize themselves with existing conditions shall not relieve the contractor of their responsibility under the terms of any subsequent contract.

The Town reserves the right to cancel any subsequent contract at any time should the quality of workmanship prove unsatisfactory. Ten (10) days notification by the Town shall be provided in the event of such cancellation.

I. PROPERTY TAX VERIFICATION:

The Town of Stratford, under Connecticut law (Section 12-146b), will withhold payments to contractors who provide services or products to the Town but who owe delinquent property taxes to the Town. Property taxes include taxes on personal property, real property and motor vehicles.

J. ELIGIBILITY TO BID:

The contractor shall certify that they are eligible to bid on this project and that they are not a party that is excluded from Federal procurement or non-procurement programs and from receiving Federal contracts. This certification shall also be required of any subcontractor that may be included on the project.

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**TOWN OF STRATFORD
PURCHASING DEPARTMENT
STRATFORD, CONNECTICUT**

BID FORM

**RE: Bid #2016-032
CD Project #4114**

Due 3:00 PM, August 18, 2016

The undersigned hereby proposes to furnish all materials, labor and equipment, and to perform all work necessary and required for the **Sidewalk Improvements Project, Stratford, Connecticut**, in accordance with the specifications as herein included.

The undersigned further understands and agrees that he is to furnish and provide all necessary material, machinery, plants, implements, tools, labor, services, skill and other items of whatever nature required, and to do and perform all the work necessary under the Contract, to complete the work in accordance with drawings and specifications, and any addenda thereto, and to accept in full compensation therefore the amount of work completed and accepted in accordance with the unit prices stated in the BID FORM, modified by such quantity or material additions or deletions, if any, as are necessary to complete the project with the funds available. (The quantities contained in the bid for are for bidding and comparison purposes and may not reflect the actual quantities that will be authorized to be constructed.)

<i>ITEM NO.</i>	<i>ITEM DESCRIPTION</i>	<i>UNIT</i>	<i>UNIT PRICE</i>	<i>BID QUANTITY</i>	<i>TOTAL</i>
1	CONCRETE WALK 4 INCHES THICK, COMPLETE	SF		13,500	\$
2	CONCRETE WALK 6 INCHES THICK, COMPLETE	SF		1,500	\$
3	EXCAVATION & PLACING GRAVEL BASE, COMPLETE	CY		300	\$
4	REMOVE CONCRETE WALK, COMPLETE	SF		15,000	\$
5	LOAM AND SEED, COMPLETE	SY		350	\$
6	5" THICK CONC. HANDICAP RAMP CURB CUT, COMPLETE	SF		200	\$
7	SAWCUT CONCRETE WALK JOINTS, COMPLETE	LF		2,000	\$
8	SAWCUT BITUMINOUS PAVEMENT, COMPLETE	LF		1,000	\$
9	REMOVE AND REPLACE BIT. CONCRETE, COMPLETE	SF		600	\$
GRAND TOTAL					\$

CONTRACT - The undersigned, if notified of the acceptance of this Proposal within thirty (30) days of the date set for receiving bids, agrees to execute a Contract in the form and manner set forth herein.

PERFORMANCE - LABOR AND MATERIAL PAYMENTS BONDS - The undersigned agrees, if awarded the Contract, to execute and deliver to the Owner within ten (10) days after notification of such award, in addition to the above Contract, the Performance and Labor and Materials Payment Bonds in the form and manner set forth herein.

ADDENDA - The undersigned acknowledges receipt of the following Addenda and he agrees that he is bound by all Addenda whether or not listed herein:

<u>Addendum No.</u>	<u>Date of Addendum</u>
_____	_____
_____	_____
_____	_____
_____	_____

CONTRACTOR'S QUALIFICATIONS - To induce the making of this Contract, the Contractor shall attach AIA Form A305, Contractor's Qualification Statement (provided herein), to this document as evidence of contractor's qualifications to perform the work herein specified. Failure to submit this form with your bid will render your bid invalid.

SUBCONTRACTORS - The acceptance of subcontractors shall rest with the Owner and its decision shall be final. If the undersigned proposes to employ subcontractors, he shall attach a list of them to this document and it shall contain their name, address, and work/material to be furnished by them.

NON-COLLUSIVE BIDDING - By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in a case of a joint bid, each party thereto certifies, as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder, prior to opening, directly or indirectly to any other bidder or to any competitor; and
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

APPLICABLE LAWS - The contractor further represents and warrants that he is familiar with all Federal, State and Municipal laws, ordinances and regulations which in any way may affect the work of those employed therein.

BID SECURITY - The undersigned submits herewith, as bid security, a certified check or a bid bond, properly filled in, signed and notarized by the undersigned and the Surety, in the amount of not less than five percent (5%) of the "Total Bid Price." In case this proposal is accepted by the Owner and the undersigned refuses or neglects, within fifteen (15) calendar days of Notice of Award, to execute and deliver an agreement in the form provided herein, and to deliver executed performance and payment bonds in the amounts required and in the form prescribed herein, the amount of the bid security shall be forfeited and shall be paid to the Owner as liquidated damages.

ELIGIBILITY - The contractor by submitting this Bid Form hereby certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

As stated in 24 CFR Part 24, the contractor certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction: violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the contractor is unable to certify to any of the statements in this certification, they shall attach an explanation to this proposal.

[THIS SPACE INTENTIONALLY LEFT BLANK]

COMPLETION - The undersigned agrees to start work within 15 calendar days after authorization to proceed with the contract; and **complete** the work for which current funds are available, in the amount of \$54,173.17, within **90 calendar days** after authorization to proceed. If additional funding is approved in accordance with the "Term of Contract," as stated herein, the contractor shall start the additional work within 15 calendar days after a receipt of a separate authorization to proceed with the contract; and **complete** the work under the terms of a contract extension in accordance with the "Term of Contract" as stated herein.

ATTACHMENTS - Attached hereto is:

- a) **Bid Bond**
- b) **Contractor's Qualification Statement**
- c) **Proposed List of Subcontractors**

Dated: _____, 2016

Bidder's Name: _____
(name of corporate entity and seal)

By: _____
(signature)

Name and Title: _____

Official Address _____

Telephone No.: _____

Fax No.: _____

Email: _____

Employer Federal ID No.: _____

<< END OF BID FORM >>

SPECIMEN

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

(BIDDER'S NAME)

As Principal and _____
(NAME OF SURETY)

as Surety are hereby held and firmly bound
unto _____

in the penal sum of _____

for the payment of which, well and truly to be made, we hereby jointly and severally bind
ourselves, our heirs, executors, administrators, successors and assigns.

Signed this _____ DAY OF _____ 2016.

The condition of the above obligation is such that whereas the Principal has submitted to

a certain Bid, attached hereto and hereby made a party hereof, to enter into a Contract in
writing, for the _____

NOW, THEREFORE,

- (a) If said Bid shall be rejected, or, in the alternate
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in
the Form of Contract attached hereto (Properly completed in accordance with said Bid)
and shall furnish a bond for his faithful performance of said Contract and for the
payment of all persons performing labor or furnishing materials in connection
therewith, and shall in all other respects perform the agreement created by the
acceptance of said bid.

Then, this obligation shall be void, otherwise the same shall remain in force and effect it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated. The Surety, for value received, hereby stipulates and agrees that the obligation of said Surety and its bond shall be in no way impaired or affected by any extension of time within which the obligee may accept such Bid, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have to be signed by their proper officers, the day and year first set forth above.

BY _____ (L.S.)
PRINCIPAL

SURETY

BY _____

(SEAL)

SPECIMEN

CERTIFICATE OF SURETY

The undersigned hereby certify that they are the duly authorized agents of

duly authorized to do business in the State of Connecticut, and agree to furnish to

a surety bond for the faithful performance of any and all provision contained in the Specifications

and Contract. The maximum amount that we will be surety for is

\$ _____

SURETY COMPANY OR AGENT

ATTEST:

WITNESS

THE TERMS OF THE SURETY COMPANY FOR FURNISHING THE BOND ARE HEREBY
ACCEPTED.

NAME OF BIDDER

BY: _____
TITLE

IMPORTANT! - THIS FORM MUST BE FILLED IN BY BIDDER.

CERTIFICATE OF INSURANCE

_____ hereby certifies _____ have submitted to the _____ Proof of Carriage of Insurance (Name of Municipality) in the form required by the Contract Specifications.

CONTRACTOR

WITNESS

CERTIFICATE OF TOWN ATTORNEY

I, the undersigned _____, the duly authorized and acting legal representative of and counsel to _____ do hereby certify as follows:

I have examined the foregoing Contract, Performance Bond, Payment Bond, Insurance Policies and Certificates, the General Terms and Conditions of the Contract Specifications and the manner of the execution thereof. I am of the opinion that the aforesaid documents constitute valid and legally binding obligations upon the parties executing the same in accordance with the terms, conditions and provisions thereof.

ATTORNEY

DATE _____ 2016

STATEMENT OF COMPLIANCE WITH BIDDING

REQUIREMENTS

_____ hereby
certify that _____ have furnished all
information required in the Proposal Form and the following have been executed:

1. BID BOND
2. CERTIFICATE OF SURETY

NAME OF BIDDER

BY: _____

TITLE

WITNESS

IMPORTANT! - THIS FORM MUST BE FILLED IN BY BIDDER



AIA Document A305

Contractor's Qualification Statement

1986 EDITION

This form is approved and recommended by The American Institute of Architects (AIA) and The Associated General Contractors of America (AGC) for use in evaluating the qualifications of contractors. No endorsement of the submitting party or verification of the information is made by the AIA or AGC.

The Undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

SUBMITTED TO:

ADDRESS:

SUBMITTED BY:

Corporation

NAME:

Partnership

ADDRESS:

Individual

PRINCIPAL OFFICE:

Joint Venture

Other

NAME OF PROJECT (if applicable):

TYPE OF WORK (file separate form for each Classification of Work):

_____ General Construction

_____ HVAC

_____ Plumbing

_____ Electrical

_____ Other _____

(please specify)

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1. ORGANIZATION

- 1.1 How many years has your organization been in business as a Contractor?
- 1.2 How many years has your organization been in business under its present business name?
 - 1.2.1 Under what other or former names has your organization operated?
- 1.3 If your organization is a corporation, answer the following:
 - 1.3.1 Date of incorporation:
 - 1.3.2 State of incorporation:
 - 1.3.3 President's name:
 - 1.3.4 Vice-president's name(s):
 - 1.3.5 Secretary's name:
 - 1.3.6 Treasurer's name:
- 1.4 If your organization is a partnership, answer the following:
 - 1.4.1 Date of organization:
 - 1.4.2 Type of partnership (if applicable):
 - 1.4.3 Name(s) of general partner(s):
- 1.5 If your organization is individually owned, answer the following:
 - 1.5.1 Date of organization:
 - 1.5.2 Name of owner:

1.6 If the form of your organization is other than those listed above, describe it and name the principals:

2. LICENSING

2.1 List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.

2.2 List jurisdictions in which your organization's partnership or trade name is filed.

3. EXPERIENCE

3.1 List the categories of work that your organization normally performs with its own forces.

3.2 Claims and Suits. (If the answer to any of the questions below is yes, please attach details.)

3.2.1 Has your organization ever failed to complete any work awarded to it?

3.2.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers?

3.2.3 Has your organization filed any law suits or requested arbitration with regard to construction contracts within the last five years?

3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? (If the answer is yes, please attach details.)

3.4 On a separate sheet, list major construction projects your organization has in progress, giving the name of project, owner, architect, contract amount, percent complete and scheduled completion date.

3.4.1 State total worth of work in progress and under contract:

3.5 On a separate sheet, list the major projects your organization has completed in the past five years, giving the name of project, owner, architect, contract amount, date of completion and percentage of the cost of the work performed with your own forces.

3.5.1 State average annual amount of construction work performed during the past five years:

3.6 On a separate sheet, list the construction experience and present commitments of the key individuals of your organization.

4. REFERENCES

4.1 Trade References:

4.2 Bank References:

4.3 Surety:

4.3.1 Name of bonding company:

4.3.2 Name and address of agent:

5. FINANCING

5.1 Financial Statement.

- 5.1.1 Attach a financial statement, preferably audited, including your organization's latest balance sheet and income statement showing the following items:

Current Assets (e.g., cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses);

Net Fixed Assets;

Other Assets;

Current Liabilities (e.g., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries and accrued payroll taxes);

Other Liabilities (e.g., capital, capital stock, authorized and outstanding shares par values, earned surplus and retained earnings).

- 5.1.2 Name and address of firm preparing attached financial statement, and date thereof:

- 5.1.3 Is the attached financial statement for the identical organization named on page one?

- 5.1.4 If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent-subsidiary).

- 5.2 Will the organization whose financial statement is attached act as guarantor of the contract for construction?

6. SIGNATURE

6.1 Dated at _____ this _____ day of _____ 19____

Name of Organization:

By:

Title:

6.2

M _____ being
duly sworn deposes and says that the information provided herein is true and sufficiently complete so as not to be
misleading.

Subscribed and sworn before me this _____ day of _____ 19____

Notary Public:

My Commission Expires:



CAUTION: You should use an original AIA document which has this caution printed in red. An original assures that changes will not be obscured as may occur when documents are reproduced.

CONTRACT DOCUMENTS

CONTRACT

This AGREEMENT, made this _____ day of _____ by and between the TOWN OF STRATFORD, in the County of Fairfield, a municipal corporation of the State of Connecticut, party of the first part, and _____ a _____ with its principal place of business in _____ party of the second part, (hereinafter called Contractor).

WITNESSETH THAT, for and in consideration of the premises and the agreement herein contained, and the payments herein provided to be made, the parties hereto agree as follows:

FIRST

(a) The Contractor accepts and agrees to abide by the provisions of Section 31-53 of Connecticut General Statutes, excerpted as follows:

Sec. 31-53 Construction, alteration or repair of public works projects by state or political subdivision; wage rates; certified payroll. Penalties for violations. (a) Each contract for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project by the state or any of its agents, or by any political subdivision of the state or any of its agents, shall contain the following provision: "The wages paid on an hourly basis to any mechanic, laborer or workman employed upon the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such employee to any employee welfare fund, as defined in subsection (h) of section 31-53 of the general statutes, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such employees to any such employee welfare fund shall pay to each employee as part of his wages the amount of payment or contribution for his classification on each pay day."

(h) As used in this section, section 31-54 and section 31-89a, "employee welfare fund" means any trust fund established by one or more employers and one or more labor organizations to provide from moneys in the fund, whether through the purchase of insurance or annuity contracts or otherwise, benefits under an employee welfare plan; provided such term shall not include any such fund where the trustee, or all of the trustees, are subject to supervision by the Commissioner of Banking of this state or any other state of the Comptroller of the Currency of the United States or the Board of Governors of the Federal Reserve System, and "benefits under an employee welfare plan" means one or more benefits or services under any plan established or maintained for employees or their families or dependents, or for both, including, but not limited to, medical, surgical or hospital care benefits; benefits in the event of sickness, accident, disability or death; benefits in the event of unemployment, or retirement benefits.

(b) The contractor further covenants and agrees at its own proper cost charge and expense to furnish all machinery, appliances, tools, insurance, labor and materials necessary or proper to do all the work necessary to construct all the works, equipment and fixtures, appurtenant thereto, as set forth in the Contractor's Bid Proposal, dated _____ and as generally described in the "Project Manual" for the "Sidewalk Improvements Project" as prepared by the Engineering Department, and in the Contract Documents, set forth in the Fourth Article hereunder, all in a first class workmanlike manner, and in strict accordance with the plans, drawings and specifications therefore, advertisement, and the Contractor's Bid Proposal all of which plans, drawings, specifications, advertisement, proposal and other Contract Documents all forming part of the Contract and made a part hereof, to the same extent as though the same were herein expressly written; and under the general supervision of the Town Engineer of the Town of Stratford.

The contractor agrees to commence work on this project on or before a date to be specified in a written "Notice to Proceed" from the Town of Stratford and to fully complete the project within the time limit specified in the contract documents.

SECOND

In consideration of the contractor faithfully complying with all the terms and stipulations of this Contract as set forth herein, and in the other Contract Documents, the Town of Stratford covenants and agrees to pay the said Contractor at the time and times, and in the manner more particularly set forth in the contract documents.

THIRD

The Contractor agrees to indemnify, defend and hold harmless the Town of Stratford, its employees, agents and servants from any and all claims or demands for damages or injuries to either person or property which arise or may arise out of the performance of this contract, and shall indemnify and insure the Town of Stratford in the manner more particularly set forth in the Insurance Requirements attached herein, which are made part of this Contract.

FOURTH

The term "Contract Documents" shall mean and include the following:

1. Project Manual:
2. Invitation to Bid
3. Bid Proposal
4. All Contract Forms:
 - a. Bid Bond
 - b. Contract
 - c. Acknowledgement of Officer of Town Executing Contract
 - d. Acknowledgement of Corporate Contractor
 - e. Performance Bond and Labor Material Payment Bond
 - f. Certificate of Insurance
 - g. Notice of Award
 - h. Notice to Proceed
 - i. Town of Stratford, Standard Insurance Requirements
 - j. Federal Contract Requirements and Exhibits, including
 - CHRO-Contract Compliance Regulations-Notification to Bidders
 - State of Connecticut DECD Contract Compliance Data Form
 - Contractor's Minority Business Enterprises Utilization Form
 - Affidavit
 - Funding Restrictions for State Board Fund Contracts for Capital Development of Facilities
5. Standard Conditions
6. Supplemental Conditions
7. Scope of Work
8. Contract Drawings
9. Supplemental Specifications
10. Addendum:

IN WITNESS WHEREOF: the Town Council of the Town of Stratford, in the County of Fairfield has authorized the Corporate Seal of the Town of Stratford to be hereto affixed and this Contract to be signed by the Mayor and that same attested to by the Town Clerk and the Contractor has caused this Contract to be signed by its duly authorized officer, and its corporate seal to be hereunto affixed all the day and year first above written.

ATTEST:

TOWN OF STRATFORD

BY: _____
Town Clerk

BY: _____
John A. Harkins, Mayor

DATE: _____

ATTEST:

CONTRACTOR

BY: _____

BY: _____

DATE: _____

**ACKNOWLEDGEMENT OF OFFICER OF TOWN
EXECUTING CONTRACT**

State of Connecticut)
County of Fairfield)

ss: Stratford

Be it remembered, that on this ____ day of July 2016 before me personally appeared John A. Harkins, known by me to be the Mayor of the Town of Stratford, who, being first duly sworn deposes and says:

1. That he knows the seal of the Town of Stratford.
2. The seal affixed to this Contract is the seal of the Town of Stratford.
3. That the seal was so affixed and the contract signed and delivered by James R. Miron who was at the date thereof the Mayor of the Town of Stratford.
4. The said seal was affixed and the Contract delivered in the presence of deponent.
5. At the same time the said Mayor acknowledged that he signed, sealed and delivered the same as his voluntary act and deed.
6. At the same time deponent signed his name to said contract as an attesting witness to the execution thereof.

Susan Pawluk
Town Clerk

SUBSCRIBED AND SWORN TO, BEFORE ME:

NOTARY PUBLIC

A NOTARY PUBLIC OF THE STATE OF CONNECTICUT

MY COMMISSION EXPIRES: _____

**ACKNOWLEDGMENT BY SECRETARY
OF CORPORATE CONTRACTOR**

State of Connecticut

ss: _____

County of _____

Be it remembered that on this _____ day of _____ 2016 personally appeared _____ who, being first duly sworn, deposes and says:

1. He is the secretary of _____ the contractor
(Name of Corporation)
named in the foregoing contract.
2. He well knows the seal of said corporation and the seal affixed to the contract is in fact the seal of the corporation.
3. The seal was affixed and the contract signed and delivered by _____
(Name of Officer Who Signed)
who was on the date of signing the _____ of the corporation,
(Title of Officer Who Signed)
and who acknowledged that he signed, sealed and delivered the same as his voluntary act and deed and as the voluntary act and deed of the corporation.
4. The contract was signed and the corporate seal affixed in the presence of deponent who subscribed the contract as an attesting witness to the execution thereof.

SECRETARY

SUBSCRIBED AND SWORN TO, BEFORE ME:

NOTARY PUBLIC

MY COMMISSION EXPIRES:

(seal)

ACKNOWLEDGEMENT OF CONTRACTOR, IF A PARTNERSHIP

State of Connecticut)

ss:

County of)

Be it remembered, that on this _____ day of _____ 2016 before me the subscriber _____ personally appeared _____ who, I am satisfied _____ the _____ mentioned in the within _____ Instrument, to who I first made known the content thereof, and thereupon _____ acknowledge that _____ signed, sealed and delivered the same as _____ VOLUNTARY ACT AND DEED, for the uses and purposes therein expressed.

Notary Public

A NOTARY PUBLIC OF THE STATE OF CONNECTICUT

My Commission Expires:

**ACKNOWLEDGEMENT OF CONTRACTOR, IF AN INDIVIDUAL
DOING BUSINESS UNDER TRADE NAME**

State of Connecticut) ss:

County of)

Be it remembered, that on this _____ day of _____ 2016 before me
the subscriber _____
personally appeared _____ who, I
am satisfied _____ the
_____ mentioned in the within Instrument, to whom I first
made known the content thereof, and thereupon
_____ acknowledged that _____ signed,
sealed and delivered the same as _____ voluntary act and
deed, for the uses and purposes therein expressed.

Notary Public _____

A NOTARY PUBLIC OF THE STATE OF CONNECTICUT

My Commission Expires:

ACKNOWLEDGEMENT OF CONTRACTOR, IF AN INDIVIDUAL

State of Connecticut) ss:

County of)

Be it remembered, that on this _____ day of _____ 2016 before me the subscriber _____ personally appeared _____ who, I am satisfied _____ the _____ mentioned in the within Instrument, to whom I first made known the content thereof, and thereupon _____ acknowledged that _____ signed, sealed and delivered the same as _____ voluntary act and deed, for the uses and purposes therein expressed.

Notary Public

A NOTARY PUBLIC OF THE STATE OF CONNECTICUT

My Commission Expires:

**ACKNOWLEDGMENT BY MANAGING MEMBER
OF LLC**

State of Connecticut

ss: _____

County of _____

Be it remembered that on this _____ day of _____, 2016 personally appeared _____ who, being first duly sworn, deposes and says:

1. He is a Managing Member of _____ the contractor named in the foregoing contract. (Name of Company)
2. He well knows the seal of said LLC and the seal affixed to the contract is in fact the seal of the LLC.
3. The seal was affixed and the contract signed and delivered by

(Name of Member Who Signed)

who was on the date of signing a Managing Member of the Company and who acknowledged that he signed, sealed and delivered the same as his voluntary act and deed and as the voluntary act and deed of the Company.

4. The contract was signed and the seal affixed in the presence of deponent who subscribed the contract as an attesting witness to the execution thereof.

MANAGING MEMBER

SUBSCRIBED AND SWORN TO, BEFORE ME:

NOTARY PUBLIC

MY COMMISSION EXPIRES:

(seal)

**TOWN OF STRATFORD
ENGINEERING BUREAU**

**SUPPLEMENTAL GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION
Sidewalk Improvements Project**

This contract will cover the repair & replacement and installation of new concrete sidewalks and miscellaneous other concrete work such as steps, driveways, removing and disposing old concrete walks and old tar or asphalt walks, in accordance with Town Standards, CT DOT Standard Specifications Form 817 (The contractor is expected to obtain and be familiar with this standard document, which will be the basis for the technical specifications for the road work, as supplemented) and Supplemental Specifications contained herein.

The specific locations for work to be completed under this contract has not yet been fully decided. Streets where work is contemplated are: College St, Collins St, Otis St, Soundview Ave, Pond St, Mary Ave, Patchen St, Barnum Terrace, and others to be determined.

The quantities listed on the bid form are for bid comparison purposes only and may not reflect actual quantities constructed. The amount of work completed will depend on the available funding throughout the year. There is currently \$54,173 appropriated for the work. As stated on the bid form, the contractor shall perform work within **90 calendar days** after authorization to proceed. In the event additional funding becomes available, the contract term shall continue to complete this work but will expire no later than two years from the date of the contract. Work under additional funding shall be completed in accordance with the terms of an extension.

Work to be completed is such as may be ordered by the Mayor or Town Engineer in accordance with "An Ordinance Concerning Defective and Unsafe Sidewalks" as marked and directed in the field as well as other miscellaneous work.

Insurance Coverage and other conditions, reservations and instructions as outlined in the Standard Form covering Contracted Services apply to this contract.

It will be an essential part of the contract obligation that all orders issued by this department for this work be started within 15 days of the date of the order. No work is to be started by the contractor until this department has issued a formal order to cover the specific job or jobs.

Failure to perform the work as required shall be cause for the Town of Stratford to have the work completed by others, in which case the contractor and his bonding company will be responsible to the Town for any increased costs for having the work done.

The Contractor shall be solely responsible for damage, loss or liability due to theft or vandalism during the construction period, including working hours, nights, weekends, and holidays. The Contractor's responsibility shall end on the date of final payment.

The contractor will not be penalized for failure to deliver materials under this contract where such failure results from a contractor's inability to secure materials as a result of strikes, or other conditions over which the contractor has no control.

SPECIMEN
PERFORMANCE AND LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS,

That we, _____
of _____ (thereinafter called
the _____ Principal) as _____ Principal, and
_____ a corporation organized and
existing under the laws of the State of _____ and duly authorized to
transact a surety business in the State of Connecticut (hereinafter called the Surety), as Surety,
are held and firmly bound unto the TOWN OF STRATFORD as Obligee, in the sum of
\$ _____ lawful money of the United State of America, for the payment of
which, well and truly to be made to the Obligee, we bind ourselves, our heirs, successors and
assigns, jointly and severally, firmly by these presents.

Signed, Sealed and Delivered this _____ day of _____ 2016

THE CONDITION OF THIS OBLIGATION is such that Whereas said Principal has entered into a certain written contract with said Obligee, dated the _____ day of _____ 2016, which contract provides for the construction of sidewalks and which contract, together with all plans and specifications now or hereafter made in extension, modification or alteration thereof, are incorporated in and made a part of this bond as though herein fully set forth.

NOW, THEREFORE, if the said Principal shall well and truly keep perform and execute all the terms, conditions and stipulations of bid contract on his (its) part to be kept, performed and executed according to the provisions of said contract and shall promptly pay for all materials furnished and labor supplied or performed in the prosecution of the work included in and under the aforesaid Contract, whether or not the material or labor enters into and becomes a component part of the real property, and shall indemnify and reimburse the Obligee for any loss that it may suffer through the failure of the Principal to faithfully observe and perform each and every obligation and duty imposed upon the Principal by said Contract at the time and in the manner therein specified or to pay for all such materials furnished and labor supplied or performed, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

PROVIDED, HOWEVER, that any alterations which may be made in the terms of said Contract, or in the work done or to be done under it, or the giving by the Obligee of any extension of time for the performance of said Contract or any other forbearance on the part of either the Obligee or the Principal one to the other, shall not in any way release the Principal and the Surety, or either of their representatives, heirs, executors, administrators, successors or assigns from liability hereunder, notice to the surety of any such alterations, extensions or forbearance being hereby specifically and absolutely waived.

AND FURTHER PROVIDED that any party, whether a subcontractor or otherwise, who furnishes materials or supplies or performs labor or services in the prosecution of the work under said Contract, and who is not paid therefore, may bring a suit on this bond in the name of the Obligee, prosecute the same to a final judgment and have execution thereon for such sum or sums as may be justly due, provided, however, that the Obligee shall not be liable to furnish counsel nor to pay any costs or expenses of any such suit,

IN WITNESS WHEREOF, _____
(Principal) has hereunto affixed his hand and seal causes this Instrument to be signed by _____, its _____ (Title) duly authorized, and its corporate seal to be hereunder affixed, and _____ has caused this Instrument to be signed by _____ its _____ duly authorized, and its corporate seal to be hereunto affixed, this _____ day of _____ 2016.

WITNESSED:

PRINCIPAL (SEAL)

BY: _____
ITS

SURETY
BY: _____
ITS

FEDERAL CONTRACT REQUIREMENTS

BID #2016-032
CD PROJECT NOS.: 4114

SIDEWALK IMPROVEMENTS PROJECT

This contract is being funded in whole or in part by the Town of Stratford using Federal funds from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant Program. The Department of Community/Economic Development of the Town of Stratford is the appointed administering agency for the Town's Community Development Block Grant Program authorized to ensure compliance with all applicable Federal contract requirements. The following Federal contract requirements must be complied with by the Contractor and all Sub-Contractors in connection with the performance of work under this contract.

1. Wages and Salaries

Attention of Bidders is particularly called to the requirements concerning the payment of not less than the prevailing wage and salary rates specified in the Contract Documents and the conditions of employment with respect to certain categories and classifications of employees. (See applicable Exhibits and Attachments).

The rates of pay set forth within the Contract Documents are the minimum to be paid during the life of the Contract. **Please note that Federal prevailing wages apply to this project.** In the event a contract extension causes the dollar amount of the contract to reach or exceed \$100,000, State prevailing wages may apply. It is therefore the responsibility of Bidders to inform themselves as to local labor conditions, such as the length of work day and work week, overtime compensation, health and welfare contributions, labor supply and prospective changes or adjustments of rates.

2. Federal Labor Standards

The Bidder is advised of the requirement under this Contract for compliance with the Federal Labor Standards Provisions including the "Anti-Kickback Act", Labor Standards for Ratios of Apprentices and Trainees to Journeymen and the Contract Work Hours and Safety Standards Act. (See Exhibit "B")

3. Implementation of Section 3 of the Housing and Urban Development Act of 1968

The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development Act of 1968, as amended. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to

business concerns which are located in, or owned in substantial part by persons residing in the area of the project. (See Exhibit "C")

Specifically, Section 3 of the Housing and Urban Development Act of 1968 applies to this contract if the amount of HUD assistance exceeds \$200,000 or the contract or subcontract exceeds \$100,000. The Contractor shall, to the maximum extent feasible, make a good faith effort to fill any job vacancies, provide opportunities for training and employment in connection with this contract to low income persons residing in the PMSA relevant to the project location. Where the preceding applies, contractors must comply with the following Section 3 Clause:

- A.** The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1791u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. Section 3 eligible employees are those residents from the area who are at or below 80% of median based on household size.
- B.** The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C.** The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference shall set for the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking application for each of the positions; and the anticipated date the work shall begin.
- D.** The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E.** The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the

contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.

- F. To meet your Section 3 goals, you will be asked to provide an explanation of the process you use to hire employees as well as the number of new employees hired by you or your major subcontractors during this project. The goal is that 30% of the aggregate number of new hires be Section 3 eligible residents.
- G. Award of contracts to Section 3 eligible businesses also needs to be documented. The goal for Section 3 eligible businesses is 10% of the total contract cost. You will be asked to provide the number of contracts made to Section 3 eligible subcontractors, suppliers, or vendors during the course of this project, as well if any of these companies are minority/women/disadvantaged enterprises.

Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

4. Patents/Copyrights

- a. The Contractor shall hold and save the Town and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the Town unless otherwise specifically stipulated in the Contract Documents.
- b. License and/or Royalty Fees for the use of a process which is authorized by the Town must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Town and not by or through the Contractor.
- c. If the Contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the Town of such patented or copyrighted design, device or material. It is mutually agreed and understood that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Town of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify the Town for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

5. Conflict of Interest

No employee, officer or agent of the Town of Stratford or subgrantee, shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his/her immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above has a financial or other interest in the firm selected for award. The Town's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

6. Inspection and Retention of Records

The Contractor shall allow for access by the Owner, HUD, the Comptroller General or any of their duly authorized representatives to any books, documents, papers, correspondence, construction drawings, receipts, vouchers, payrolls, and agreements with subcontractors which are duly pertinent to the Contract for the purpose of making audits, examinations, excerpts and transcripts. The Contractor shall preserve all such records for a period of three (3) years after the final payments hereunder.

The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as the paragraph above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.

The periods of access and examination in the above paragraphs for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the Town, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

7. Equal Employment Opportunity

Contractors must comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor Regulation (41 CFR Part 60) (See Exhibit "D").

8. Affirmative Action Requirements

This contract is subject to all Federal and State Affirmative Action regulations. The contractor will be required to comply with those regulations. This includes the documentation listed below, and included within the contract.

- An Affirmative Action Policy Statement must be submitted to the municipality or their agent from each Contractor receiving funds in the amount of \$500,000 or less under the grant.
- For each contractor with a contract in excess of \$500,000, the contractor must submit an Affirmative Action Plan to the Connecticut Commission on Human Rights and Opportunities (CHRO) with a copy to the municipality or their agent. Contractors should forward a copy of CHRO's approval to the municipality or their agent.

9. Lobbying

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c. The Contractor will require that the language of this paragraph (b) be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

10. Clean Air and Water (Applicable to Contracts in Excess of \$100,000)

- a. Definition. "Facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by the Contractor or any subcontractor, used in the performance of the contract or any subcontract. When a location or site of operations includes more

than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency (EPA) determines that independent facilities are collocated in one geographical area.

- b. In compliance with regulations issued by the United States Environmental Protection Agency (EPA), 40 CFR Part 15, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Contractor agrees to--
 1. Not utilize any facility in the performance of this contract or any subcontract which is listed on the EPA List of Violating Facilities pursuant to Part 15 of the regulations for the duration of time that the facility remains on the list;
 2. Promptly notify the Contracting Officer if a facility the Contractor intends to use in the performance of this contract is on the EPA List of Violating Facilities or the Contractor knows that it has been recommended to be placed on the list;
 3. Comply with all requirements of the Air Act and the Water Act, including the requirements of Section 114 of the Air Act and Section 308 of the Water Act, and all applicable clean air and clean water standards; and,
 4. Include or cause to be included the provisions of this clause in every subcontract, and take such action as HUD may direct as a means of enforcing such provisions.

11. Energy Efficiency

The Contractor shall comply with all standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

12. Termination for Cause and for Convenience (For Contracts in excess of \$10,000)

- a. The Town may terminate this contract in whole, or in part, whenever the Town determines that such termination is in its best interest. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- b. If the performance of the work is terminated, either in whole or in part, the Town shall be liable to the Contractor for reasonable and proper costs resulting from

such termination upon the receipt by the Town of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the Town to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the Town or assignee takes possession thereof or assumes responsibility therefor; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the Town; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.

- c. The Town will act on the Contractor's claim within _____ days (60 days unless otherwise indicated) of receipt of the Contractor's claim.

13. **Default**

- a. If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Town may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In this event, the Town may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Town resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Town in completing the work.
- b. The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if--
 - 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the Town or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the Town, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

2. The Contractor, within ___ days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Town) notifies the Town in writing of the causes of delay. The Town shall ascertain the facts and the extent of the delay. If, in the judgment of the Town, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Town shall be reduced to a written decision.
- c. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the Town.

14. Reports, Records and Data

The Contractor shall submit to the Town such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Town may request concerning work performed or to be performed under this contract.

15. Special Requirements

a. OSHA

Any contract awarded on or after July 1, 2009 requires any mechanic, laborer, or worker who performs work in a classification listed on the prevailing wage rate schedule on any public works project is required to complete a ten (10) hour federal OSHA safety and health course and provide proof of completion.

EXHIBIT "A"

Federal Prevailing Wage and Salary Rates

General Decision Number: CT160001 07/01/2016 CT1

Superseded General Decision Number: CT20150001

State: Connecticut

Construction Type: Highway

Counties: Fairfield, Litchfield, Middlesex, New Haven, Tolland and Windham Counties in Connecticut.

HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/08/2016
1	01/15/2016
2	04/08/2016
3	04/29/2016
4	05/13/2016
5	05/27/2016
6	06/17/2016
7	07/01/2016

BRCT0001-004 01/04/2016

	Rates	Fringes
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BRICKLAYER

BRICKLAYERS, CEMENT MASONS, CEMENT FINISHERS, PLASTERERS AND STONE MASONS.	\$ 33.48	28.76
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CARP0024-006 05/02/2016

LITCHFIELD COUNTY

Harwinton, Plymouth, Thomaston, Watertown

MIDDLESEX COUNTY

NEW HAVEN COUNTY

Beacon Falls, Bethany, Branford, Cheshire, East Haven, Guilford, Hamden, Madison, Meriden, Middlebury, Naugatuck, New Haven, North Branford, North Haven, Orange (east of Orange Center Road and north of Route 1, and north of Route 1 and east of the Oyster River), Prospect, Southbury, Wallingford, Waterbury, West Haven, Wolcott, Woodbridge

TOLLAND COUNTY

Andover, Columbia, Coventry, Hebron, Mansfield, Union, Willington

WINDHAM COUNTY

	Rates	Fringes
Carpenters:		
CARPENTERS, PILEDRIVERS.....	\$ 32.00	24.42
DIVER TENDERS.....	\$ 32.00	24.42
DIVERS.....	\$ 40.46	24.42
MILLWRIGHTS.....	\$ 32.47	24.84

CARP0043-004 05/02/2016

	Rates	Fringes
Carpenters: (TOLLAND COUNTY Bolton, Ellington, Somers, Tolland, Vernon)		
CARPENTERS, PILEDRIVERS.....	\$ 32.00	24.42
DIVER TENDERS.....	\$ 32.00	24.42
DIVERS.....	\$ 40.46	24.42
MILLWRIGHT.....	\$ 32.47	24.84

CARP0210-002 05/02/2016

	Rates	Fringes
Carpenters:		
CARPENTERS, PILEDRIVERS.....	\$ 32.00	24.42
DIVER TENDERS.....	\$ 32.00	24.42
DIVERS.....	\$ 40.46	24.42
MILLWRIGHTS.....	\$ 32.47	24.84

FAIRFIELD COUNTY

Bethel, Bridgeport, Brookfield, Danbury, Darien, Easton,
Fairfield, Greenwich, Monroe, New Canaan, New Fairfield,
Newtown, Norwalk, Redding, Ridgefield, Shelton, Sherman,
Stamford, Stratford, Trumbull, Weston, Westport, Wilton;

LITCHFIELD COUNTY

Barkhamstead, Bethlehem, Bridgewater, Canaan, Colebrook,
Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New
Milford, Norfolk, North Canaan, Roxbury, Salisbury, Sharon,
Torrington, Warren, Washington, Winchester, Woodbury;

NEW HAVEN COUNTY

Ansonia, Derby, Milford, Orange (west of Orange Center Road
and south of Route 1 and west of the Oyster River), Oxford,
Seymour;

ELEC0003-002 05/08/2008

	Rates	Fringes
Electricians FAIRFIELD COUNTY		
Darien, Greenwich, New Canaan, Stamford.....	\$ 44.75	30.42

ELEC0035-001 06/01/2016

Rates Fringes

Electricians:

MIDDLESEX COUNTY
 (Cromwell, Middlefield,
 Middleton and Portland);
 TOLLAND COUNTY; WINDHAM
 COUNTY.....\$ 38.65 3%+24.42

ELEC0090-002 06/01/2016

	Rates	Fringes
Electricians:.....	\$ 37.50	3%+25.06

LITCHFIELD COUNTY

Plymouth Township;
 MIIDDLESEX COUNTY

Chester, Clinton, Deep River, Durham, East Haddam, East
 Hampton, Essex, Haddam, Killingworth, Old Saybrook, Westbrook;

NEW HAVEN COUNTY

All Townships excluding Beacon Falls, Middlebury, Milford,
 Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury and
 Wolcott.

ELEC0488-002 06/01/2016

	Rates	Fringes
Electricians.....	\$ 38.02	3%+23.75

FAIRFIELD COUNTY

Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield,
 Monroe, New Fairfield, Newtown, Norwalk, Redding, Ridgefield,
 Shelton, Sherman, Stratford, Trumbull, Weston, Westport and
 Wilton.

LITCHFIELD COUNTY

Except Plymouth;

NEW HAVEN COUNTY

Beacon Falls, Middlebury, Milford, Naugatuck, Oxford,
 Prospect, Seymour, Southbury, Waterbury and Wolcott

ENGI0478-001 04/03/2016

	Rates	Fringes
Power equipment operators:		
GROUP 1.....	\$ 38.55	23.55
GROUP 2.....	\$ 38.23	23.55
GROUP 3.....	\$ 37.49	23.55
GROUP 4.....	\$ 37.10	23.55
GROUP 5.....	\$ 36.51	23.55
GROUP 6.....	\$ 36.20	23.55
GROUP 7.....	\$ 35.86	23.55
GROUP 8.....	\$ 35.46	23.55
GROUP 9.....	\$ 35.03	23.55
GROUP 10.....	\$ 32.99	23.55
GROUP 11.....	\$ 32.99	23.55
GROUP 12.....	\$ 32.93	23.55
GROUP 13.....	\$ 33.46	23.55

GROUP 14.....	\$ 32.35	23.55
GROUP 15.....	\$ 32.04	23.55
GROUP 16.....	\$ 31.21	23.55
GROUP 17.....	\$ 30.80	23.55
GROUP 18.....	\$ 30.15	23.55

Hazardous waste premium \$3.00 per hour over classified rate.

- Crane with boom, including jib, 150 feet - \$1.50 extra.
- Crane with boom, including jib, 200 feet - \$2.50 extra.
- Crane with boom, including jib, 250 feet - \$5.00 extra.
- Crane with boom, including jib, 300 feet - \$7.00 extra.
- Crane with boom, including jib, 400 feet - \$10.00 extra

All Cranes: When crane operator is operating equipment that requires a fully licensed crane operator to operate he receives an extra \$3.00 premium in addition to the hourly wage rate and benefit contributions:

- 1) Crane handling or erecting structural steel or stone, hoisting engineer(2 drums or over)
- 2) Cranes(100 ton rated capacity and over) Bauer Drill/Caisson
- 3) Cranes(under 100 ton rated capacity)

a. PAID HOLIDAYS: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Crane handling or erecting structural steel or stone, hoisting engineer (2 drums or over), front end loader (7 cubic yards or over), work boat 26 ft. and over.

GROUP 2: Cranes (100 ton capacity & over), Excavator over 2 cubic yards, piledriver (\$3.00 premium when operator controls hammer), Bauer Drill/Caisson

GROUP 3: Excavator, cranes (under 100 ton rated capacity), gradall, master mechanic, hoisting engineer (all types of equipment where a drum and cable are used to hoist or drag material regardless of motive power or operation) Rubber Tire Excavator (drott 1085 or similar); Grader Operator; Bulldozer Fine Grade (slopes, shaping, laser or GPS, etc.)

GROUP 4: Trenching machines, lighter derrick, concrete finishing machine, CMI machine or similar, Koehring Loader (scooper).

GROUP 5: Specialty railroad equipment, asphalt spreader, asphalt reclaiming machine, line grider, concrete pumps, drills with self contained power units, boring machine, post hole digger, auger, pounder, well digger, milling machine (over 24' mandrel), side boom, combination hoe and loader, directional driller

GROUP 6: Front end loader (3 cu. yds. up to 7 cu. yards), bulldozer (Rough grade dozer) .

GROUP 7: Asphalt roller, concrete saws and cutters (ride on types), Vermeer concrete cutter, stump grinder, scraper, snooper, skidder, milling machine (24" and under Mandrel).

GROUP 8: Mechanic, grease truck operator, hydoblaster, barrier mover, power stone spreader, welder, work boat under 26 ft. transfer machine.

GROUP 9: Front end loader (under 3 cubic yards), skid steer loader (regardless of attachments), bobcat or similar, forklift, power chipper, landscape equipment (including hydroseeder).

GROUP 10: Vibratory hammer, ice machine, diesel & air, hammer, etc.

GROUP 11: Conveyor, earth roller, power pavement breaker (whiphammer), robot demolition equipment.

GROUP 12: Wellpoint operator.

GROUP 13: Portable asphalt plant operator, portable concrete plant operator, portable crusher plant operator.

GROUP 14: Compressor battery operator.

GROUP 15: Power Safety boat, Vacuum truck, Zim mixer, Sweeper; (Minimum for any job requiring a CDL license) .

GROUP 16: Elevator operator, tow motor operator (solid tire no rough terrain).

GROUP 17: Generator operator, compressor operator, pump operator, welding machine operator; Heater operator.

GROUP 18: Maintenance engineer.

* IRON0015-002 06/27/2016

	Rates	Fringes
Ironworkers: (Reinforcing, Structural and Precast Concrete Erection).....	\$ 35.22	31.99

a. PAID HOLIDAY: Labor Day provided employee has been on the payroll for the 5 consecutive work days prior to Labor Day.

LABO0056-003 04/03/2016

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 28.55	18.90
GROUP 2.....	\$ 28.80	18.90
GROUP 3.....	\$ 29.05	18.90
GROUP 4.....	\$ 29.55	18.90
GROUP 5.....	\$ 30.30	18.90
GROUP 6.....	\$ 30.55	18.90
GROUP 7.....	\$ 16.00	18.90

LABORERS CLASSIFICATIONS

GROUP 1: Laborers (Unskilled), acetylene burner, concrete specialist

GROUP 2: Chain saw operators, fence and guard rail erectors, pneumatic tool operators and powdermen.

GROUP 3: Pipelayers, Jackhammer/Pavement breaker (handheld), mason tenders/catch basin builders, asphalt rakers, air track operators, block paver and curb setter

GROUP 4: Asbestos/lead removal

GROUP 5: Blasters

GROUP 6: Toxic waste remover

GROUP 7: Traffic control signalman

LAB00056-004 04/03/2016

	Rates	Fringes
Laborers: (TUNNEL CONSTRUCTION)		
CLEANING, CONCRETE AND CAULKING TUNNEL:		
Concrete Workers, Form Movers and Strippers.....	\$ 31.28	18.90
Form Erectors.....	\$ 31.60	18.90
ROCK SHAFT, CONCRETE, LINING OF SAME AND TUNNEL IN FREE AIR:		
Brakemen, Trackmen, Tunnel Laborers, Shaft Laborers.....	\$ 31.28	18.90
Laborers Topside, Cage Tenders, Bellman.....	\$ 31.17	18.90
Miners.....	\$ 32.22	18.90
SHIELD DRIVE AND LINER PLATE TUNNELS IN FREE AIR:		
Brakemen and Trackmen.....	\$ 31.28	18.90
Miners, Motormen, Mucking Machine Operators, Nozzlemen, Grout Men, Shaft and Tunnel, Steel and Rodmen, Shield and Erector, Arm Operator, Cable Tenders.....	\$ 32.22	18.90
TUNNELS, CAISSON AND CYLINDER WORK IN COMPRESSED AIR:		
Blaster.....	\$ 38.53	18.90
Brakemen, Trackmen, Groutman, Laborers, Outside Lock Tender, Gauge Tenders.....	\$ 38.34	18.90
Change House Attendants, Powder Watchmen, Top on Iron Bolts.....	\$ 36.41	18.90
Mucking Machine Operator...	\$ 39.11	18.90

a. PAID HOLIDAYS: On tunnel work only: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

No employee shall be eligible for holiday pay when he fails,

without cause, to work the regular work day preceding the holiday or the regular work day following the holiday.

PAIN0011-001 06/01/2016

	Rates	Fringes
Painters:		
Blast and Spray.....	\$ 35.02	20.15
Brush and Roll.....	\$ 32.02	20.15
Tanks, Towers, Swing.....	\$ 34.02	20.15

PAIN0011-003 06/01/2016

	Rates	Fringes
Painters: (BRIDGE CONSTRUCTION)		
Brush, Roller, Blasting (Sand, Water, etc.) Spray...	\$ 46.95	20.15

TEAM0064-001 04/03/2016

	Rates	Fringes
Truck drivers:		
2 Axle Ready Mix.....	\$ 28.93	21.39
2 Axle.....	\$ 28.83	21.39
3 Axle Ready Mix.....	\$ 28.98	21.39
3 Axle.....	\$ 28.93	21.39
4 Axle Ready Mix.....	\$ 29.08	21.39
4 Axle.....	\$ 29.03	21.39
Heavy Duty Trailer 40 tons and over.....	\$ 29.28	21.39
Heavy Duty Trailer up to 40 tons.....	\$ 29.03	21.39
Specialized (Earth moving equipment other than conventional type on-the-road trucks and semi-trailers, including Euclids).....	\$ 29.08	21.39

Hazardous waste removal work receives additional \$1.25 per hour.

a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Good Friday; provided the employee has at least 31 calendar days of service and works the last scheduled day before and the first scheduled day after the holiday, unless excused.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

EXHIBIT "B"

Federal Labor Standards Provisions

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

- A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.
- (ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)
- (c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)
- (d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. **Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) **Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration . . . makes, utters or publishes any statement knowing the same to be false . . . shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EXHIBIT "C"

**Section 3 of the Housing and Urban Development Act
of 1968, as amended
12.U.S.C. 1701 U (Section 3)**

ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW INCOME PERSONS
(Section 3 of the Housing and Urban Development Act of 1968)*

12 U.S.C. 1701u

**SEC. 3. ECONOMIC OPPORTUNITIES FOR
LOW- AND VERY LOW-INCOME
PERSONS.**

(a) FINDINGS.—The Congress finds that—

(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

(b) POLICY.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

(c) EMPLOYMENT.—

(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating

assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

(i) To residents of the housing developments for which the assistance is expended.

(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(2) OTHER PROGRAMS.—

(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(d) CONTRACTING.—

(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to

* As amended by sec. 915 of the Housing and Community Development Act of 1992, Public Law 102-550, October 28, 1992.

section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

(ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public and Indian housing agency that is providing the assistance.

(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

(2) OTHER PROGRAMS.—

(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic

opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms 'low-income persons' and 'very low-income persons' have the same meanings given the terms 'low-income families' and 'very low-income families', respectively, in section 3(b)(2) of the United States Housing Act of 1937.

(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term 'a business concern that provides economic opportunities' means a business concern that—

(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

(B) employs a substantial number of such persons; or

(C) meets such other criteria as the Secretary may establish.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992, the Secretary shall promulgate regulations to implement this section.

ECONOMIC OPPORTUNITIES FOR LOW- AND VERY-LOW INCOME PERSONS (24 CFR 135)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary
for Fair Housing and Equal
Opportunity

24 CFR Part 135

[Docket No. R-94-1677; FR-2898-1-02]

RIN 2529-AA49

Economic Opportunities for Low- and Very Low-Income Persons

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Interim rule.

[59 FR 33866, June 30, 1994]

SUMMARY: This interim rule amends part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

DATES: Effective date: August 1, 1994, through June 30, 1995.

Comments due date: August 29, 1994.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Maxine B. Cunningham, Director, Office of Economic Opportunity, Room 5232, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2251 (voice/TDD). (This is not a toll-free number.)

PART 135—ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS

Subpart A—General Provisions

Sec.

- 135.1 Purpose.
- 135.2 Effective date of regulation.
- 135.3 Applicability.
- 135.5 Definitions.
- 135.7 Delegation of authority.
- 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.
- 135.11 Other laws governing training, employment, and contracting.

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

- 135.30 Numerical goals for meeting the greatest extent feasible requirement.
- 135.32 Responsibilities of the recipient.
- 135.34 Preference for section 3 residents in training and employment opportunities.
- 135.36 Preference for section 3 business concerns in contracting opportunities.
- 135.38 Section 3 clause.
- 135.40 Providing other economic opportunities.

Subpart C—[Reserved]

Subpart D—Complaint and Compliance Review

- 135.70 General.
- 135.72 Cooperation in achieving compliance.
- 135.74 Section 3 compliance review procedures.
- 135.76 Filing and processing complaints.

Subpart E—Reporting and Recordkeeping

- 135.90 Reporting.
 - 135.92 Recordkeeping and access to records.
- Appendix to Part 135
Authority: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 135.1 Purpose.

(a) *Section 3.* The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws

and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

(b) *Part 135.* The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

§ 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect.

§ 135.3 Applicability.

(a) *Section 3 covered assistance.* Section 3 applies to the following HUD assistance (section 3 covered assistance):

(1) *Public and Indian housing assistance.* Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:

(i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);

(ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and

(iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;

(2) Housing and community development assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and community development assistance that is used for the following projects:

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; and

(iii) Other public construction.

(3) *Thresholds—(i) No thresholds for section 3 covered public and Indian housing assistance.* The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance cov-

ered by section 3, regardless of the amount of the contract or subcontract.

(ii) *Thresholds for section 3 covered housing and community development assistance*—(A) *Recipient thresholds*. The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.

(B) *Contractor and subcontractor thresholds*. The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

(C) *Threshold met for recipients, but not contractors or subcontractors*. If a recipient receives section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.

(b) *Applicability of section 3 to entire project or activity funded with section 3 assistance*. The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) *Applicability to Indian housing authorities and Indian tribes*. Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). (See 24 CFR part 905.)

(d) *Other HUD assistance and other Federal assistance*. Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low-income persons, or which employ low- and very low-income persons.

§ 135.5 Definitions.

As used in this part:

Annual Contributions Contract (ACC) means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists the PHA or the IHA in providing decent, safe, and sanitary housing for low income families.

The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

Applicant means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Business concern means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Business concern that provides economic opportunities for low- and very low-income persons. See definition of "section 3 business concern" in this section.

Contract. See the definition of "section 3 covered contract" in this section.

Contractor means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

Department or HUD means the Department of Housing and Urban Development, including its Field Offices to which authority has been delegated to perform functions under this part.

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in § 135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services

required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing authority (HA) means, collectively, public housing agency and Indian housing authority.

Housing and community development assistance means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance does not include financial assistance provided through a contract of insurance or guaranty.

Housing development means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild programs mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

Indian housing authority (IHA) has the meaning given this term in 24 CFR part 905.

Indian tribes shall have the meaning given this term in 24 CFR part 571.

JTPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Low-income person. See the definition of "section 3 resident" in this section.

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

Neighborhood area means:

(1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

(2) For HUD community development programs, see the definition, if provided,

in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Nonmetropolitan county means any county outside of a metropolitan area.

Other HUD programs means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for "section 3 covered projects," as defined in this section.

Public housing agency (PHA) has the meaning given this term in 24 CFR part 941.

Public housing resident has the meaning given this term in 24 CFR part 963.

Recipient means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which section 3 applies and does not include contractors.

Secretary means the Secretary of Housing and Urban Development.

Section 3 means section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means a business concern, as defined in this section—

(1) That is 51 percent or more owned by section 3 residents; or

(2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or

(3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

Section 3 clause means the contract provisions set forth in § 135.38.

Section 3 covered activity means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

Section 3 covered assistance means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act;

(2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act;

(3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act;

(4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; or

(iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 covered contract means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

Section 3 covered project means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 joint venture. See § 135.40. *Section 3 resident* means: (1) A public housing resident; or

(2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is:

(i) A *low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as deter-

mined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or

(ii) A *very low-income person*, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Section 8 assistance means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

Service area means the geographical area in which the persons benefitting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.

Subcontractor means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

Very low-income person. See the definition of "section 3 resident" in this section.

Youthbuild programs. See the definition of "HUD Youthbuild programs" in this section.

§ 135.7 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secre-

tary is further authorized to redelegate functions and responsibilities to other employees of HUD; provided however, that the authority to issue rules and regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.

(a) *Certification of compliance with part 135.* All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to the funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) *Statement of purpose in NOFAs.* (1) For competitively awarded assistance in which the grants are for activities administered by an HA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed \$200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) *Section 3 as NOFA evaluation criteria.* Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and

contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

§ 135.11 Other laws governing training, employment, and contracting.

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) *Procurement standards for States and local governments* (24 CFR 85.36)—(1) *General.* Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

(2) *Flexible Subsidy Program.* Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) *Procurement standards for other recipients* (OMB Circular No. A-110). Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A-110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) *Federal labor standards provisions.* Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a-276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to labor-

ers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in "approved apprenticeship and training programs," as described in paragraph (d) of this section.

(d) *Approved apprenticeship and trainee programs.* Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) *Compliance with Executive Order 11246.* Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

Subpart B—Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

§ 135.30 Numerical goals for meeting the greatest extent feasible requirement.

(a) *General.* (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.

(3) For recipients that do not engage in training, or hiring, but award contracts to

contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(4) The numerical goals established in this section represent minimum numerical targets.

(b) *Training and employment.* The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels.

(1) *Numerical goals for section 3 covered public and Indian housing programs.* Recipients of section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one period beginning in FY 1996;

(iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter.

(2) *Numerical goals for other HUD programs covered by section 3.* (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project;

(ii) Where a managing general partner or management agent is affiliated, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as:

(A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter.

(3) Recipients of section 3 covered community development assistance, and

their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and

(iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) *Contracts.* Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns:

(1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) *Safe harbor and compliance determinations.* (1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements.

(2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

§ 135.32 Responsibilities of the recipient.

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors.

This responsibility includes but may not be necessarily limited to:

(a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

(b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts.

(c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in § 135.30;

(d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in § 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at § 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

§ 135.34 Preference for section 3 residents in training and employment opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the

order of priority provided in paragraph (a) of this section.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority:

(i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);

(ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents);

(iii) Participants in HUD, Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents);

(iv) Other section 3 residents.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and

(ii) Participants in HUD Youthbuild programs (category 2 residents).

(iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority;

(iv) Other section 3 residents.

(3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located.

(4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located.

(b) *Eligibility for preference.* A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a section 3 resident, as defined in § 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public

assistance, or evidence of participation in a public assistance program.)

(c) *Eligibility for employment.* Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

§ 135.36 Preference for section 3 business concerns in contracting opportunities.

(a) *Order of providing preference.* Recipients, contractors and subcontractors shall direct their efforts to award section 3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section.

(1) *Public and Indian housing programs.* In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority:

(i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses);

(ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) *Housing and community development programs.* In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out

HUD Youthbuild programs (category 2 businesses);

(iii) Other section 3 business concerns.

(b) *Eligibility for preference.* A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in § 135.5.

(c) *Ability to complete contract.* A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(8)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

§ 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can

see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

§ 135.40 Providing other economic opportunities.

(a) *General.* In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) *Other training and employment related opportunities.* Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) *Other business related economic opportunities.* (1) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises. Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(2) A section 3 joint venture means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

Subpart C—[Reserved]

Subpart D—Complaint and Compliance Review

§ 135.70 General.

(a) *Purpose.* The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) *Definitions.* For purposes of this subpart:

(1) *Complaint* means an allegation of noncompliance with regulations of this part made in the form described in § 135.76(d).

(2) *Complainant* means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) *Noncompliance with section 3* means failure by a recipient or contractor to comply with the requirements of this part.

(4) *Respondent* means the recipient or contractor against which a complaint of noncompliance has been filed. The term "recipient" shall have the meaning set forth in § 135.7, which includes PHA and IHA.

§ 135.72 Cooperation in achieving compliance.

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in investigations of allegations of noncompliance made under § 135.76, and with the distribution and collection of data and information that the Assistant Secretary may require in connection with achieving the economic objectives of section 3.

(b) The recipient shall refrain from entering into a contract with any contractor after notification to the recipient by HUD that the contractor has been found in violation of the regulations in this part. The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension or otherwise ineligible status.

§ 135.74 Section 3 compliance review procedures.

(a) *Compliance reviews by Assistant Secretary.* The Assistant Secretary shall periodically conduct section 3 compliance reviews of selected recipients and contractors to determine whether these recipients are in compliance with the regulations in this part.

(b) *Form of compliance review.* A section 3 compliance review shall consist of a comprehensive analysis and evaluation of the recipient's or contractor's compliance with the requirements and obligations imposed by the regulations of this

part, including an analysis of the extent to which section 3 residents have been hired and section 3 business concerns have been awarded contracts as a result of the methods undertaken by the recipient to achieve the employment, contracting and other economic objectives of section 3.

(c) *Where compliance review reveals noncompliance with section 3 by recipient or contractor.* Where the section 3 compliance review reveals that a recipient or contractor has not complied with section 3, the Assistant Secretary shall notify the recipient or contractor of its specific deficiencies in compliance with the regulations of this part, and shall advise the recipient or contractor of the means by which these deficiencies may be corrected. HUD shall conduct a follow-up review with the recipient or contractor to ensure that action is being taken to correct the deficiencies.

(d) *Continuing noncompliance by recipient or contractor.* A continuing failure or refusal by the recipient or contractor to comply with the regulations in this part may result in the application of sanctions specified in the contract through which HUD assistance is provided, or the application of sanctions specified in the regulations governing the HUD program under which HUD financial assistance is provided. HUD will notify the recipient of any continuing failure or refusal by the contractor to comply with the regulations in this part for possible action under any procurement contract between the recipient and the contractor. Debarment, suspension and limited denial of participation pursuant to HUD's regulations in 24 CFR part 24, where appropriate, may be applied to the recipient or the contractor.

(e) *Conducting compliance review before the award of assistance.* Section 3 compliance reviews may be conducted before the award of contracts, and especially where the Assistant Secretary has reasonable grounds to believe that the recipient or contractor will be unable or unwilling to comply with the regulations in this part.

(f) *Consideration of complaints during compliance review.* Complaints alleging noncompliance with section 3, as provided in § 135.76, may also be considered during any compliance review conducted to determine the recipient's conformance with regulations in this part.

§ 135.76 Filing and processing complaints.

(a) *Who may file a complaint.* The following individuals and business concerns may, personally or through an authorized representative, file with the Assistant Secretary a complaint alleging noncompliance with section 3:

(1) Any section 3 resident on behalf of himself or herself, or as a representative of persons similarly situated, seeking employment, training or other economic opportunities generated from the expenditure of section 3 covered assistance with a recipient or contractor, or by a representative who is not a section 3 resident but who represents one or more section 3 residents;

(2) Any section 3 business concern on behalf of itself, or as a representative of other section 3 business concerns similarly situated, seeking contract opportunities generated from the expenditure of section 3 covered assistance from a recipient or contractor, or by an individual representative of section 3 business concerns.

(b) *Where to file a complaint.* A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C., 20410.

(c) *Time of filing.* (1) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

(2) Where a complaint alleges noncompliance with section 3 and the regulations of this part that is continuing, as manifested in a number of incidents of noncompliance, the complaint will be timely if filed within 180 days of the last alleged occurrence of noncompliance.

(3) Where a complaint contains incomplete information, the Assistant Secretary shall request the needed information from the complainant. In the event this information is not furnished to the Assistant Secretary within sixty (60) days of the date of the request, the complaint may be closed.

(d) *Contents of complaint—(1) Written complaints.* Each complaint must be in writing, signed by the complainant, and include:

(i) The complainant's name and address;

(ii) The name and address of the respondent;

(iii) A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.

(iv) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the complainant for signature.

(2) *Amendment of complaint.* Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to,

amendments to cure, technical defects or omissions, including failure to sign or affirm a complaint, to clarify or amplify the allegations in a complaint, or to join additional or substitute respondents. Except for the purposes of notifying respondents, amended complaints will be considered as having been made as of the original filing date.

(e) *Resolution of complaint by recipient.*

(1) Within ten (10) days of timely filing of a complaint that contains complete information (in accordance with paragraphs (c) and (d) of this section), the Assistant Secretary shall determine whether the complainant alleges an action or omission by a recipient or the recipient's contractor that if proven qualifies as noncompliance with section 3. If a determination is made that there is an allegation of noncompliance with section 3, the complaint shall be sent to the recipient for resolution.

(2) If the recipient believes that the complaint lacks merit, the recipient must notify the Assistant Secretary in writing of this recommendation with supporting reasons, within 30 days of the date of receipt of the complaint. The determination that a complaint lacks merit is referred to the Assistant Secretary.

(3) If the recipient determines that there is merit to the complaint, the recipient will have sixty (60) days from the date of receipt of the complaint to resolve the matter with the complainant. At the expiration of the 60-day period, the recipient must notify the Assistant Secretary in writing whether a resolution of the complaint has been reached. If resolution has been reached, the notification must be signed by both the recipient and the complainant, and must summarize the terms of the resolution reached between the two parties.

(4) Any request for an extension of the 60-day period by the recipient must be submitted in writing to the Assistant Secretary, and must include a statement explaining the need for the extension.

(5) If the recipient is unable to resolve the complaint within the 60-day period (or more if extended by the Assistant Secretary), the complaint shall be referred to the Assistant Secretary for handling.

(f) *Informal resolution of complaint by Assistant Secretary—(1) Dismissal of complaint.* Upon receipt of the recipient's written recommendation that there is no merit to the complaint, or upon failure of the recipient and complainant to reach resolution, the Assistant Secretary shall review the complaint to determine whether it presents a valid allegation of noncompliance with section 3. The Assistant Secretary may conduct further investigation if deemed necessary. Where the complaint fails to present a valid allegation of noncompliance with section 3, the Assistant Secretary will dismiss the com-

plaint without further action. The Assistant Secretary shall notify the complainant of the dismissal of the complaint and the reasons for the dismissal.

(2) *Informal resolution.* Where the allegations in a complaint on their face, or as amplified by the statements of the complainant, present a valid allegation of noncompliance with section 3, the Assistant Secretary will attempt, through informal methods, to obtain a voluntary and just resolution of the complaint. Where attempts to resolve the complaint informally fail, the Assistant Secretary will impose a resolution on the recipient and complainant. Any resolution imposed by the Assistant Secretary will be in accordance with requirements and procedures concerning the imposition of sanctions or resolutions as set forth in the regulations governing the HUD program under which the section 3 covered assistance was provided.

(3) *Effective date of informal resolution.* The imposed resolution will become effective and binding at the expiration of 15 days following notification to recipient and complainant by certified mail of the imposed resolution, unless either party appeals the resolution before the expiration of the 15 days. Any appeal shall be in writing to the Secretary and shall include the basis for the appeal.

(g) *Sanctions.* Sanctions that may be imposed on recipients that fail to comply with the regulations of this part include debarment, suspension and limited denial of participation in HUD programs.

(h) *Investigation of complaint.* The Assistant Secretary reserves the right to investigate a complaint directly when, in the Assistant Secretary's discretion, the investigation would further the purposes of section 3 and this part.

(i) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person or business because the person or business has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(j) *Judicial relief.* Nothing in this subpart D precludes a section 3 resident or section 3 business concerning from exercising the right, which may otherwise be available, to seek redress directly through judicial procedures. (Approved by the Office of Management and Budget under control number 2529-0043.)

Subpart E—Reporting and Recordkeeping

§ 135.90 Reporting.

Each recipient which receives directly from HUD financial assistance that is subject to the requirements of this part shall submit to the Assistant Secretary an annual report in such form and with such information as the Assistant Secretary may request, for the purpose of determining the effectiveness of section 3. Where the program providing the section 3 covered assistance requires submission of an annual performance report, the section 3 report will be submitted with that annual performance report. If the program providing the section 3 covered assistance does not require an annual performance report, the section 3 report is to be submitted by January 10 of each year or within 10 days of project completion, whichever is earlier. All reports submitted to HUD in accordance with the requirements of this part will be made available to the public. (Approved by the Office of Management and Budget under control number 2529-0043.)

§ 135.92 Recordkeeping and access to records.

HUD shall have access to all records, reports, and other documents or items of the recipient that are maintained to demonstrate compliance with the requirements of this part, or that are maintained in accordance with the regulations governing the specific HUD program under which section 3 covered assistance is provided or otherwise made available to the recipient or contractor.

Appendix to Part 135

I. Examples of Efforts To Offer Training and Employment Opportunities to Section 3 Residents

(1) Entering into 'first source' hiring agreements with organizations representing Section 3 residents.

(2) Sponsoring a HUD-certified 'Step-Up' employment and training program for section 3 residents.

(3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other section 3 residents in the building trades.

(4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 or category 2 per-

sons (as these terms are defined in § 135.34) reside.

(5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For HAs, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the section 3 covered project.

(6) Contacting resident councils, resident management corporations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.

(7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by an HA or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the section 3 covered project.

(8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a section 3 project is located.

(9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.

(10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the section 3 covered project.

(11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the HA's or contractor's training and employment positions.

(12) Consulting with State and local agencies administering training programs funded through JTPA or JOBS, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the

HA's or contractor's training and employment positions.

(13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the section 3 business concerns identified in part 135), that will undertake, on behalf of the HA, other recipient or contractor, the efforts to match eligible and qualified section 3 residents with the training and employment positions that the HA or contractor intends to fill.

(15) For an HA, employing section 3 residents directly on either a permanent or a temporary basis to perform work generated by section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations. See 24 CFR 905.102, and § 905.201(a)(6).)

(16) Where there are more qualified section 3 residents than there are positions to be filled, maintaining a file of eligible qualified section 3 residents for future employment positions.

(17) Undertaking job counseling, education and related programs in association with local educational institutions.

(18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of section 3 residents previously hired for employment opportunities.

(19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other section 3 residents to be trained or employed on the section 3 covered assistance.

(20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

II. Examples of Efforts To Award Contracts to Section 3 Business Concerns

(1) Utilizing procurement procedures for section 3 business concerns similar to those provided in 24 CFR part 905 for business concerns owned by Native Americans (see section III of this Appendix).

(2) In determining the responsibility of potential contractors, consider their record of section 3 compliance as evidenced by past actions and their current plans for the pending contract.

(3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying section 3 businesses which may solicit bids or propos-

als for contracts for work in connection with section 3 covered assistance.

(4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the HA.

(5) For HAs, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns.

(6) Providing written notice to all known section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the section 3 business concerns to respond to the bid invitations or request for proposals.

(7) Following up with section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.

(8) Coordinating pre-bid meetings at which section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.

(9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.

(10) Advising section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

(11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of section 3 business concerns.

(12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by section 3 business concerns.

(13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.

(14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.

(15) Developing a list of eligible section 3 business concerns.

(16) For HAs, participating in the "Contracting with Resident-Owned Businesses" program provided under 24 CFR part 963.

(17) Establishing or sponsoring programs designed to assist residents of public or

Indian housing in the creation and development of resident-owned businesses.

(18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to section 3 business concerns.

(19) Supporting businesses which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration (SBA), the Department of Commerce and comparable agencies at the State and local levels.

(20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.

(21) Actively supporting joint ventures with section 3 business concerns.

(22) Actively supporting the development or maintenance of business incubators which assist Section 3 business concerns.

III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

(1) *Small Purchase Procedures.* For section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(i) *Solicitation.* (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

- the section 3 covered contract to be awarded with sufficient specificity;
- the time within which quotations must be submitted; and
- the information that must be submitted with each quotation.

(B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the cir-

circumstances when it has been unable to obtain at least three quotations.

(i) *Award.* (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

(B) Where the section 3 covered contract is to be awarded based on factors other than

price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of 15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) *Procurement by sealed bids (Invitations for Bids).* Preference in the award of section

3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

(i) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid-

(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and

(B) is not more than "X" higher than the total bid price of the lowest responsive bid from any responsible bidder. "X" is determined as follows:

	x = lesser of:
When the lowest responsive bid is less than \$100,000	10% of that bid or \$9,000.
When the lowest responsive bid is:	
At least \$100,000, but less than \$200,000	9% of that bid, or \$16,000.
At least \$200,000, but less than \$300,000	8% of that bid, or \$21,000.
At least \$300,000, but less than \$400,000	7% of that bid, or \$24,000.
At least \$400,000, but less than \$500,000	6% of that bid, or \$25,000.
At least \$500,000, but less than \$1 million	5% of that bid, or \$40,000.
At least \$1 million, but less than \$2 million	4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million	3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million	2% of that bid, or \$105,000.
\$7 million or more	1 1/2% of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)). (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent

feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor's section 3 strategy to

comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Dated: June 27, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

Section 3

What is Section 3?

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

How does Section 3 promote self- sufficiency?

Section 3 is a starting point to obtain job training, employment and contracting opportunities. From this integral foundation coupled with other resources comes the opportunity for economic advancement and self-sufficiency.

- Federal, state and local programs
- Advocacy groups
- Community and faith-based organizations

How does Section 3 promote homeownership?

Section 3 is a starting point to homeownership. Once a Section 3 resident has obtained employment or contracting opportunities they have begun the first step to self-sufficiency.

Remember, "It doesn't have to be fields of dreams". Homeownership is achievable. For more information visit our HUD [website](#).

Who are Section 3 residents?

Section 3 residents are:

- Public housing residents or
- Persons who live in the area where a HUD-assisted project is located and who have a household income that falls below HUD's income limits.

Determining Income Levels

- Low income is defined as 80% or below the median income of that area.
- Very low income is defined as 50% or below the median income of that area.

What is a Section 3 business concern?

A business that:

- Is 51 percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or

- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

What programs are covered?

Section 3 applies to HUD-funded Public and Indian Housing assistance for development, operating, and modernization expenditures.

Section 3 also applies to certain HUD-funded Housing and Community Development projects that complete housing rehabilitation, housing construction, and other public construction.

What types of economic opportunities are available under Section 3?

- Job training
- Employment
- Contracts

Any employment resulting from these expenditures, including administration, management, clerical support, and construction, is subject to compliance with Section 3.

Examples of Opportunities include:

- | | | |
|------------------------|-------------------------|-----------------------|
| • Accounting | • Electrical | • Marketing |
| • Architecture | • Elevator Construction | • Painting |
| • Appliance repair | • Engineering | • Payroll Photography |
| • Bookkeeping | • Fencing | • Plastering |
| • Bricklaying | • Florists | • Plumbing |
| • Carpentry | • Heating | • Printing Purchasing |
| • Carpet Installation | • Iron Works | • Research |
| • Catering | • Janitorial | • Surveying |
| • Cement/Masonry | • Landscaping | • Tile setting |
| • Computer/Information | • Machine Operation | • Transportation |
| • Demolition | • Manufacturing | • Word processing |
| • Drywall | | |

Who will award the economic opportunities?

Recipients of HUD financial assistance will award the economic opportunities. They and their contractors and subcontractors are required to provide, to the greatest extent feasible, economic opportunities consistent with existing Federal, State, and local laws and regulations.

Who receives priority under Section 3?

For training and employment:

- Persons in public and assisted housing
- Persons in the area where the HUD financial assistance is spent
- Participants in HUD Youthbuild programs
- Homeless persons

For contracting:

- Businesses that meet the definition of a Section 3 business concern

How can businesses find Section 3 residents to work for them?

Businesses can recruit Section 3 residents in public housing developments and in the neighborhoods where the HUD assistance is being spent. Effective ways of informing residents about available training and job opportunities are:

- Contacting resident organizations, local community development and employment agencies
- Distributing flyers
- Posting signs
- Placing ads in local newspapers

Are recipients, contractors, and subcontractors required to provide long-term employment opportunities, not simply seasonal or temporary employment?

Recipients are required, to the greatest extent feasible, to provide all types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs.

Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, full-time staff.

A Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30 percent requirement. This encourages recipients to continue hiring Section 3 residents when employment opportunities are available.

What if it appears an entity is not complying with Section 3?

There is a complaint process. Section 3 residents, businesses, or a representative for either may file a complaint if it seems a recipient is violating Section 3 requirements are being on a HUD-funded project.

Will HUD require compliance?

Yes. HUD monitors the performance of contractors, reviews annual reports from recipients, and investigates complaints. HUD also examines employment and

contract records for evidence that recipients are training and employing Section 3 residents and awarding contracts to Section 3 businesses.

How can Section 3 residents or Section 3 business concerns allege Section 3 violations?

You can file a written complaint with your local HUD Field Office.

A written complaint should contain:

- Name and address of the person filing the complaint
- Name and address of subject of complaint (HUD recipient, contractor or subcontractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective action sought i.e. training, employment or contracts

19. SECTION 3 (Only required if total project cost, including change orders, totals \$100,000 or more)

Section 3 of the Housing and Urban Development Act of 1968 applies to this contract if the amount of HUD assistance exceeds \$200,000 or the contract or subcontract exceeds \$100,000. The Contractor shall, to the maximum extent feasible, make a good faith effort to fill any job vacancies, provide opportunities for training and employment in connection with this contract to low income persons residing in the PMSA relevant to the project location. Where the preceding applies, contractors must comply with the following Section 3 Clause:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1791u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing. Section 3 eligible employees are those residents from the area who are at or below 80% of median based on household size.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference shall set for the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking application for each of the positions; and the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.
- F. To meet your Section 3 goals, you will be asked to provide an explanation of the process you use to hire employees as well as the number of new employees hired by you or your major subcontractors during this project. The goal is that 30% of the aggregate number of new hires be Section 3 eligible residents.
- G. Award of contracts to Section 3 eligible businesses also needs to be documented. The goal for Section 3 eligible businesses is 10% of the total contract cost. You will be asked to provide the number of contracts made to Section 3 eligible subcontractors, suppliers, or vendors during the course of this project, as well if any of these companies are minority/women/disadvantaged enterprises.

Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debayment or suspension from future HUD assisted contracts.

20. SPECIAL REQUIREMENTS

a. OSHA

Any contract awarded on or after July 1, 2009 requires any mechanic, laborer, or worker who performs work in a classification listed on the prevailing wage rate schedule on any public works project is required to complete a ten (10) hour federal OSHA safety and health course and provide proof of completion.

**FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
(OSHA)**

Sec. 31-53b. Construction safety and health course. New miner training program. Proof of completion required for mechanics, laborers and workers on public works projects. Enforcement. Regulations. Exceptions. (a) Each contract for a public works project entered into on or after July 1, 2009, by the state or any of its agents, or by any political subdivision of the state or any of its agents, described in subsection (g) of section 31-53, shall contain a provision requiring that each contractor furnish proof with the weekly certified payroll form for the first week each employee begins work on such project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 on such public works project, pursuant to such contract, has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, has completed a new miner training program approved the Federal Mine Safety and Health Administration in accordance with 30 CFR 48 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268.

(b) any person required to complete a course or program under subsection (a) of this section who has not completed the course or program shall be subject to removal from the worksite if the person does not provide documentation of having completed such course or program by the fifteenth day after the date the person is found to be in noncompliance. The Labor Commissioner or said commissioner's designee shall enforce this section.

(c) Not later than January 1, 2009, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of subsections (a) and (b) of this section. Such regulations shall require that the ten-hour construction safety and health courses required under subsection (a) of this section be conducted in accordance with federal Occupational Safety and Health Administration Training Institute standards, or in accordance with 29 CFR 1910.268, as appropriate. The Labor Commissioner shall accept as sufficient proof of compliance with the provisions of subsection (a) or (b) of this section a student course completion card issued by the federal Occupational Safety and Health Administration Training Institute, or such other proof of compliance said commissioner deems appropriate, dated no earlier than five years before the commencement date of such public works project.

(d) This section shall not apply to employees of public service companies, as defined in section 16-1, or drivers of commercial motor vehicles driving the vehicle on the public works project and delivering or picking up cargo from public works projects provided they perform no labor relating to the project other than the loading and unloading of their cargo.

(P.A. 06-175, S. 1; P.A. 08-83, S. 1.)

History: P.A. 08-83 amended Subsec. (a) by making provisions applicable to public works project contracts entered into on or after July 1, 2009, replacing provision re total cost of work with reference to Sec. 31-53(g), requiring proof in certified payroll form that new mechanic, laborer or worker has completed a 10 hour or more construction safety course and adding provision re new miner training program, amended Subsec. (b) by substituting "person" for "employee" and adding "or program", amended Subsec. (c) by adding "or in accordance with Federal Mine Safety and health Administration Standards" and setting new deadline of January 1, 2009. Deleted former Subsec. (d) re 'public building'. Added new Subsec. (d) re exemptions for public service company employees and delivery drivers who perform no labor other than delivery and made conforming and technical changes, effective 1, 2009.

Informational Bulletin

THE 10-HOUR OSHA CONSTRUCTION SAFETY AND HEALTH COURSE, PROGRAM OR TRAINING

(Applicable to public works contracts as described by Conn. Gen. Stat. § 31-53(g)
entered into *on or after July 1, 2009*)

- (1) This requirement was created by Public Act No. 08-83, which is codified in Section 31-53b of the Connecticut General Statutes;
- (2) The course, program or training is required for public works contracts as described by Conn. Gen. Stat. § 31-53(g) entered into on or after July 1, 2009;
- (3) It is required of private workers (not state or municipal workers) and apprentices who perform the work of a mechanic, laborer or worker pursuant to the classifications of labor under Conn. Gen. Stat. § 31-53 on a public works project as described by Conn. Gen. Stat. § 31-53(g);
- (4) The ten-hour construction safety and health course, program or training pertains to the ten-hour Outreach Course conducted in accordance with federal OSHA Training Institute standards, a new mining training program approved by the Federal Mine Safety and Health Administration in accordance with 30 C.F. R. 48, or, for telecommunications workers, a ten-hour training course conducted in accordance with federal OSHA standard, 29 CFR 1910.268;
- (5) The internet website for the federal OSHA Training Institute is http://www.osha.gov/fso/ote/training/edcenters/fact_sheet.html;
- (6) The statutory language leaves it to the contractor and its employees to determine who pays for the cost of the ten-hour Outreach Course;
- (7) Proof of course, program or training completion shall be demonstrated through the presentation of a "completion document" (card, document, certificate or other written record issued by federal OSHA or by the Federal Mine Safety and Health Administration) as defined by Conn. State Agencies Regs. § 31-53b-1(2).
- (8) Any completion document with an issuance date more than 5 years prior to the commencement date of the public works project shall not constitute proof of compliance with § 31-53b;
- (9) For each person who performs the duties of a mechanic, laborer or worker on a public works project, the contractor shall affix a copy of the completion document

to the certified payroll required to be submitted to the contracting agency for such project on which such worker's name first appears;

- (10) Any mechanic, laborer or worker on a public works project found to be in non-compliance shall be subject to removal from the project if such employee does not provide satisfactory proof of course completion to the Labor Commissioner by the fifteenth day after the date the employee is determined to be in noncompliance;
- (11) Any such employee who is determined to be in noncompliance may continue to work on a public works project for a maximum of fourteen consecutive calendar days while bringing his or her status into compliance;
- (12) The statute provides the minimum standards required for the completion of a construction safety and health course, program or training by employees on public works contracts; any contractor can exceed these minimum requirements.;
- (13) Regulations pertaining to § 31-53b are located at Conn. State Agencies Regs. §31-53b-1 *et seq.*, and are effective May 5, 2009. The regulations are posted on the CTDOL website;
- (14) Any questions regarding this statute or the regulations may be directed to the Wage and Workplace Standards Division of the Connecticut Labor Department via the internet website of <http://www.ctdol.state.ct.us/wgwkstnd/wgemenu.htm>; or by telephone at (860)263-6790.

THE ABOVE INFORMATION IS PROVIDED EXCLUSIVELY AS AN EDUCATIONAL RESOURCE, AND IS NOT INTENDED AS A SUBSTITUTE FOR LEGAL INTERPRETATIONS WHICH MAY ULTIMATELY ARISE CONCERNING THE CONSTRUCTION OF THE STATUTE OR THE REGULATIONS.

EXHIBIT "D"

Equal Employment Opportunity Compliance with Executive Order 11246

United States Department of Labor

Office of Federal Contract Compliance Programs

Office of Federal Contract Compliance Programs (OFCCP)

Executive Order 11246, As Amended

— DISCLAIMER —

Executive Order 11246 — Equal Employment Opportunity

SOURCE: The provisions of Executive Order 11246 of Sept. 24, 1965, appear at 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p.339, unless otherwise noted.

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I — Nondiscrimination in Government Employment

[Part I superseded by EO 11478 of Aug. 8, 1969, 34 FR 12985, 3 CFR, 1966-1970 Comp., p. 803]

Part II - Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A - Duties of the Secretary of Labor

SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

[Sec. 201 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

Subpart B - Contractors' Agreements

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665 of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971]

SEC. 203.

- a. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and

shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

- b. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
- c. Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.
- d. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

[Sec. 203 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13672 of July 21, 2104, 79 FR 42971]

SEC. 204

- a. The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this **Order** in any specific contract, subcontract, or purchase **order**.
- b. The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.
- c. Section 202 of this **Order** shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the

employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this **Order**.

- d. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this **Order**: and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this **Order**."

[Sec. 204 amended by EO 13279 of Dec. 16, 2002, 67 FR 77141, 3 CFR, 2002 Comp., p. 77141 - 77144]

Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

[Sec. 205 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 206.

- a. The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.
- b. The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

[Sec. 206 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 207. The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

[Sec. 207 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 208.

- a. The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

- b. The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D - Sanctions and Penalties

SEC. 209. In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

1. Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.
2. Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.
3. Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.
4. Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.
5. After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.
6. Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

[Sec. 209 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

[Sec. 210 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

[Sec. 211 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

[Sec. 212 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

Subpart E - Certificates of Merit

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

Part III - Nondiscrimination Provisions in Federally Assisted Construction Contracts

SEC. 301. Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

[Sec. 301 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 302.

- a. "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.
- b. The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.
- c. The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

SEC. 303.

- a. The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.
- b. In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.
- c. In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

[Sec. 303 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

Part IV - Miscellaneous

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

[Sec. 401 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program

known as the "Plans for Progress."

SEC. 403.

- a. Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.
- b. Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p, 264]

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

TECHNICAL SPECIFICATIONS

SUPPLEMENTAL SPECIFICATIONS Sidewalk Improvements Project

- S1. SCOPE OF THE WORK:** The unit prices bid in the Proposal shall include all labor, materials and equipment to properly complete the work in accordance with the bid and the specifications. The technical specification for the work shall be CT DOT Standard Specifications Form 817. (The contractor is expected to obtain and be familiar with this standard document, which will be the basis for the technical specifications for the road work, as supplemented) and Supplemental Specifications contained below. No sidewalk permits or fees will be required under this contract (except for work on a State road).
- S2. TREE ROOT REMOVAL:** The contractor shall, where required, cut tree roots or stumps in the way of reconstruction in accordance with the requirements of the Town Tree Warden. All tree roots, where required, shall be cut cleanly and removed from the work area. The tree side of roots so cut shall be sealed with tree wound sealer which material shall be supplied by the Town. Cost shall be included in the unit price bid for removal of concrete or bituminous concrete walk.
- S3. SAW CUTS:** All joints not scored more than one (1) inch deep shall be cut with a saw (to minimize breaking walk not previously damaged).
- S4. DAMAGING OF UNMARKED SIDEWALK:** The contractor shall be liable for all unmarked walk damaged during construction. It will be removed and replaced at contractor's expense.
- S5. SURFACE FINISHING CONCRETE WALK:** New concrete surfaces shall be finished with a soft broom. Marking or flagging shall be done in a uniform manner. Expansion joints where required shall be so placed as to fit uniformly with the existing walk jointing.
- S6. LOAM AND SEED:** Loaming and seeding shall be done in accordance with the specifications where formwork and adjacent areas are disturbed. Loam shall consist of good quality topsoil with little stone percentage and an organic content. The topsoil shall be raked free of all stone, sticks, roots, growing weeds or other objectionable materials. Seed shall be a weed free residential lawn mix suited to hot growing environments. Areas within 12" of either side of the sidewalk shall be the payment limits for this item in computing quantity for payment where the work adjoins sidewalk replacement areas. Where extra work is specifically ordered, payment will be made according to the ordered quantity. Any other work as noted in S7 Cleanup shall not be paid for separately.
- S7. CLEANUP:** The contractor shall restore all lawn, concrete or paved areas and any other areas adjoining the work disturbed by him in installing and removing forms or pouring concrete. The job shall present a neat appearance upon completion. All costs incurred outside the pay limits shall be included in the unit prices bid for concrete work.
- S8. ASPHALT, CONCRETE, TREE DISPOSAL:** The contractor is responsible for the disposal of all asphalt, concrete, roots and excess material removed in an acceptable manner. The contractor will not be permitted to dump any material at the Town of Stratford landfill at Short Beach area, the Public Works yard, the Water Pollution Control Facility or any other public property.

SUPPLEMENTAL SPECIFICATIONS – CONTINUED

S9. PREVAILING WAGES: See attached State and Federal requirements.

S10. HANDICAP RAMP: The ramp shall be constructed in accordance with attached details. The contractor shall install a DOT standard truncated dome insert set in the concrete at the time of the pour. The ramp shall be installed flush with the pavement or at a maximum of ¼ inch above the pavement. Ramps shall be constructed in accordance with the 2010 Americans with Disabilities Act (ADA) standards for highway construction as amended.

S11. TRAFFIC CONTROL: The need for Stratford Police Officers to conduct traffic control on select streets shall be determined by the Public Works Director (PWD) or his agent in accordance with Town Ordinance. The contractor is responsible for any invoice from the Town of Stratford, which may then be passed on to the Town for Reimbursement by the Office of Community Development for all work pre-authorized. Any invoices for Police not authorized by the PWD will not be reimbursable under this contract. The contractor shall call the Stratford Police Department 24 hours in advance to schedule an officer, when authorized, and shall identify the work as a Town job, identify the project, and location of work when requesting the duty.

S12. COMPLIANCE WITH LOCAL ORDINANCE:

Pursuant to Section 8-1 of Chapter 8 of the Town Code, no changes in the terms, conditions or scope of contract that increase the cost of the contract shall be made without the approval of the Stratford Town Council. The contractor's attention is directed to Chapter 8 of the Town Code, an ordinance regarding change orders. Specifically, the following sections of this ordinance shall be made part of this contract.

8-4 Definitions

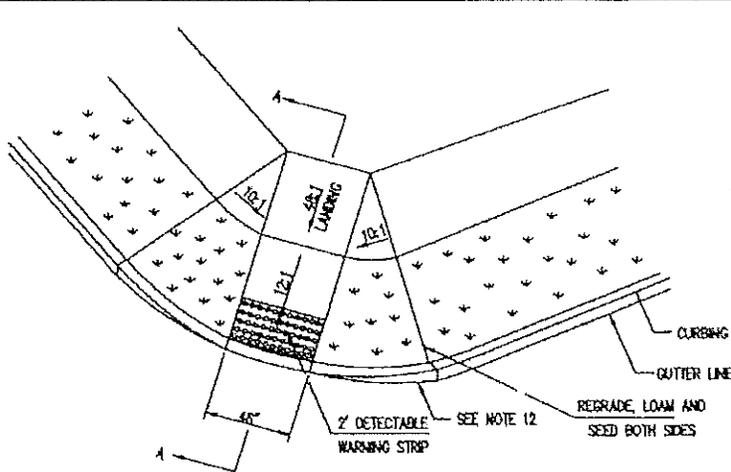
- a. Contractor means any individual or entity that performs work either as a subcontractor or contractor for the Town.

8-5 Additional Non-Contracted Work

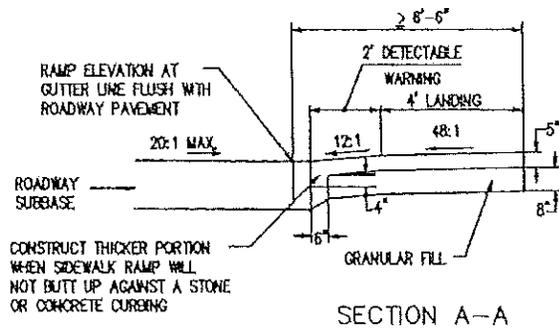
Any contractor who does work for the Town of Stratford and needs to perform work not included in the contract for proper completion of the project must immediately inform the Project Architect or the Town Engineer or his/her designee in the absence of an architect before work not included in the contract is commenced.

S12. INDEMNIFICATION

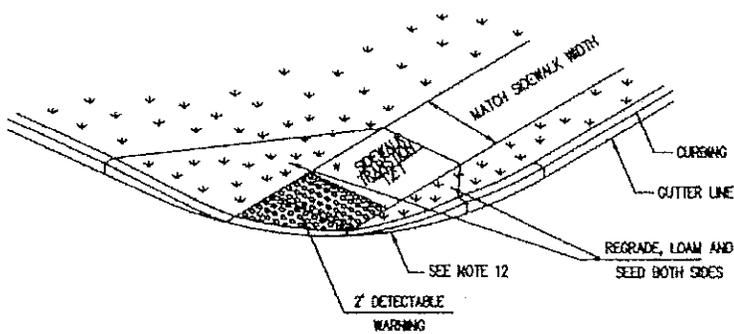
The Contractor agrees to indemnify and hold harmless the Town of Stratford, its agents, servants or employees from any and all claims or demands for damages or injuries to either person or property, which arise out of the performance of this contract.



DIAGONAL SIDEWALK RAMP (TYPE 4c)



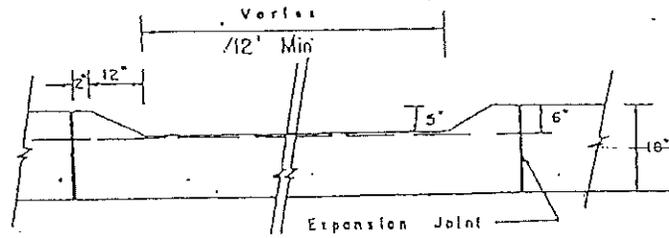
SECTION A-A



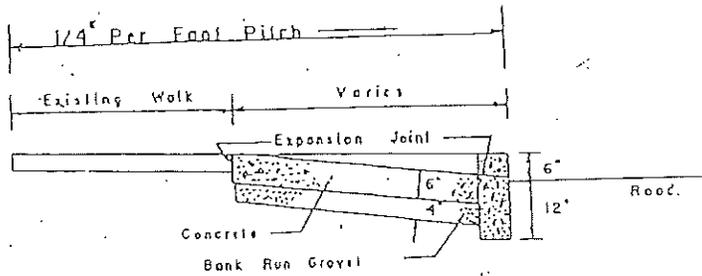
DIAGONAL SIDEWALK RAMP (TYPE 4d)

CURB
RAMP
DETAIL
(N.T.S.)

TOWN OF STRATFORD
 SIDEWALK-CURB & DRIVEWAY
 DETAILS

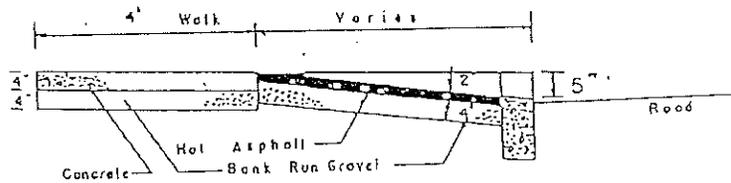


CURB CUT OUT FOR DRIVE WAY APPROACH

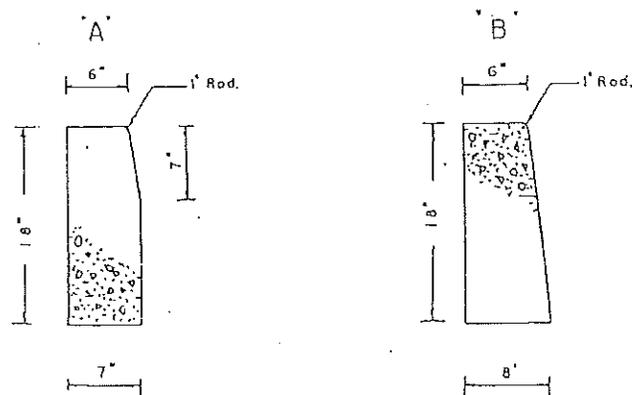


SECTION OF CONCRETE DRIVE WAY APPROACH

NOTE: SIDEWALK SHALL BE
 6" THICK AT ALL DRIVEWAYS

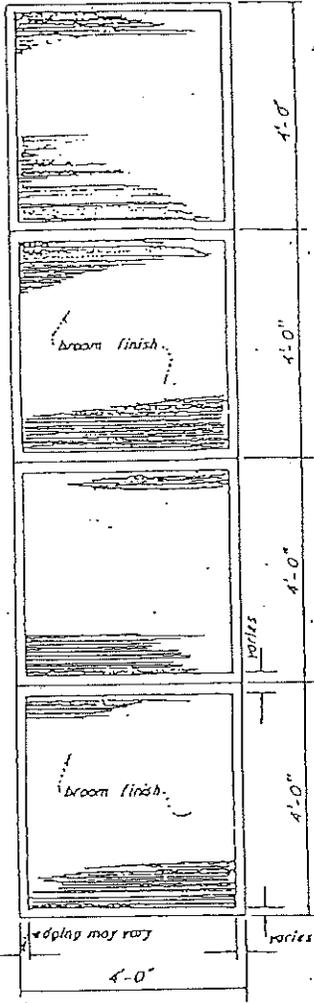


SECTION OF ASPHALT DRIVE WAY APPROACH



ALTERNATE CURB FORMS

DWG. NO. 590626.



Note: 3500 # Concrete
 Required